

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO-570-2017 (O&M)

Date of decision: 04.12.2017

Surender

.... Appellant

Versus

Nafis and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Sandeep Singal, Advocate
for the appellant.

Mr. Vipul Sharma, Advocate and
Mr. Paul S.Saini, Advocate
for respondent No.3-Insurance Company.

Avneesh Jhingan, J.

The present appeal has been filed against the award dated 15.11.2016 passed by Motor Accidents Claims Tribunal, Sonapat (hereinafter referred to as the 'Tribunal').

On 28.08.2015, Surender, aged 36 years, met with a motor vehicular accident. He was going on motorcycle bearing registration No.HR-10V-6390. The motorcycle was struck by rashly and negligently driven canter bearing registration No.DL-1LS-0421. As a result of the accident, he suffered injuries including fracture in his right leg. He was taken to General Hospital, Sonipat and was referred to PGIMS, Rohtak but he was taken to Parnami Ortho and Spine Hospital, Kundli, Sonipat.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed.

The Tribunal, after appreciating the facts and considering the evidence, awarded a sum of Rs.2,30,000/-but no interest was awarded. The interest was to be paid if the amount was not paid within a specified interest.

Learned counsel for the appellant has argued that the Tribunal ought to have awarded interest on the amount awarded. His further grievance is that no reasons have been mentioned for not awarding the statutory interest.

Learned counsel for Insurance Company argued that the Tribunal has awarded the just and equitable amount and interest was rightly not awarded as the condition was put that the said amount should be paid within three months.

The contention raised by learned counsel for the appellant deserves acceptance. Section 171 of the Act provides for the statutory interest. A perusal of the award will show that the Tribunal has not dealt with the awarding of interest.

The Hon'ble Apex Court in case **Dharampal and others vs. U.P. State Road Transport Corpn. 2008(12) SCC 208** has held as under :-

“8. As per Section 171 of the Motor Vehicle Act, 1988 (hereinafter referred as 'Act') where the claim for compensation made under the act is allowed by the Claims Tribunal, the tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate from such date not earlier than the date of making claim.”

In **National Insurance Company Ltd. vs. Keshav Bahadur, reported in 2004(2) RCR (Civil) 99 : (2004) 2 SCC 370** this court has held that

the provisions of the Act require payment of interest in addition to compensation already determined. Even though the expression 'may' is used, a duty is laid on the Tribunal to consider the question of interest separately with due regard to the facts and circumstances of the case. It was clearly held in the said decision that the provision of payment of interest is discretionary and is not and cannot be bound by rules.

Interest is compensation for forbearance or detention of money, which ought to have been paid to the claimant. No rate of interest is fixed under Section 171 of the Act and the duty has been bestowed upon the court to determine such rate of interest.

In the above referred decision, the Hon'ble Apex Court has held that the Tribunal while awarding compensation should deal with the awarding of interest separately.

In the facts and circumstances of the case, interest @ 7.5% per annum is awarded to the claimants from the date of filing the claim petition till the realisation of the amount.

The appeal is disposed of accordingly.

(AVNEESH JHINGAN)
JUDGE

04.12.2017

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1. Whether the order is speaking/reasoned: Yes/No

2. Whether the order is reportable : Yes/No