IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision no.1909 of 2014(O&M)
Date of Decision:11.09.2018

National Insurance Co.Ltd. .....Petitioner

Vs.

Bimla Devi and others ....Respondents

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr.Gopal Mittal, Advocate,
for the petitioner.

Mr.R.S.Bajaj, Advocate,
for respondents no.1 and 2.

AMOL RATTAN SINGH, J. (Oral)

By this petition, the petitioner insurance company challenges the order of the learned execution Court dated January 31, 2014, by which a sum of Rs.4,48,577/- was held to be outstanding against the petitioner.

Learned counsel for the petitioner submits that the Award of the Tribunal dated 19.08.1996, as is sought to be executed by the respondents claimants, was appealed against by way of FAO nos.3049 of 1996 and 2881 of 1996, with the former appeal filed by the claimants and the latter by the petitioner, i.e. the insurance company. Those appeals were disposed of by this Court vide a common judgment and order dated

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22.08.2008 (a copy of which annexed as Annexure P-1), enhancing the compensation of Rs.3,60,000/- as awarded by the Tribunal to Rs.6,60,000/-. As regards interest it was further held by this Court as follows:

> "Smt.Bimla Devi appellant-claimant would also be entitled to interest at the enhanced amount of compensation @ 9% per annum from the date of the petition till the date of realisation."

On the awarded amount of Rs.3,60,000/-, the Tribunal had awarded interest at the rate of 12% per annum, running from the date of filing of the claim petition till realisation, if the said amount was not deposited within 2 months from the date of the Award, i.e. by 19.10.1996.

Learned counsel for the petitioner submits that in the appeal filed by the insurance company, i.e. FAO no.2881 of 1996, at the time when notice was issued by a Division Bench of this Court on 18.10.1996, the following order had been passed:

> "Notice of motion for 9.1.1997.
>
> Disbursement of 1/3 of the compensation amount is stayed. 2/3 of the compensation deposited be paid to the claimants after obtaining adequate security."

He submits that nothing having been stated on the interest to be paid by the Division Bench, it would eventually be the order of the single Bench that would prevail, by which the aforesaid appeal was disposed of alongwith the appeal of the claimants, awarding interest at the rate of 9% per annum and not at the rate of 12%.

Mr.Bajaj learned counsel for the respondents claimants on the other hand submits that the Award of the Tribunal being very clear, that if the compensation amount was not paid then interest at the rate of 12% per annum would be payable from the date of filing of the claim petition till

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realisation, with the Division Bench never having stayed any part of the interest and only 1/3rd of the compensation awarded having been stayed, the interest on the original amount would run as awarded by the Tribunal.

Having heard learned counsel for the parties, I agree with the contention of learned counsel for the respondents, in as much as, as regards 2/3rd of the amount awarded by the Tribunal, i.e. Rs.2,40,000/- (2/3rd of Rs.3,60,000/-) that was found to be payable by the Division Bench vide the aforesaid order dated 18.10.1996, which eventually was deposited by the petitioner on 04.11.1996. Thus, the said amount having been deposited after 19.10.1996, interest on it would run at the rate of 12% per annum starting from the date of filing of the claim petition till the date of deposit, i.e. 04.11.1996.

As is also not denied by learned counsel for the respondents, the remaining principal amount of Rs.1,20,000/- as awarded by the Tribunal and the enhanced amount of Rs.3,00,000/- as awarded by this Court, i.e. a total amount of Rs.4,20,000/-, was deposited by the petitioner on 09.12.2008, which is within about 3½ months of the date of the judgment of this Court (dated 22.08.2008).

That being so, and it not being the fault of either party that 1/3rd of the compensation awarded by the Tribunal was stayed by this Court, it would be in the interest of justice that the said amount which eventually was found payable infact alongwith an enhanced amount of Rs.3,00,000/-, should also carry interest at the rate of 9% per annum on it and not 12% per annum, running from the date of filing of the claim petition till the date of realisation, i.e. 09.12.2008.

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Consequently, this petition is disposed of with a direction to the execution Court to calculate the amount aforesaid which would be paid to the respondent claimants.

(AMOL RATTAN SINGH)
JUDGE

September 11, 2018.
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Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO

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