IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.4756 of 2014 (O&M)
Date of decision: 31.05.2018

Smt. Kamli Devi and another ...Petitioners

Versus

The Oriental Insurance Company Ltd. and another ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ashwani Bhardwaj, Advocate
for the applicant-petitioners.

Mr. Lalit Garg, Advocate
for the insurance company.

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REKHA MITTAL, J. (Oral)

CM-22355 and 22356-CII-2017

Heard.

Allowed as prayed for. Delay of 350 days in re-filing and 06 days in filing the application for restoration (CM No.22357-CII of 2017) stands condoned.

CM-22357-CII-2017

Heard.

For the reasons contained in the application, same is allowed and order dated 04.08.2016 is recalled. The main petition is restored to its original number and stage.

CR No.4756 of 2014

The present petition directs challenge against order dated 28.05.2014 (Annexure P1) passed by the Commissioner under Employee's Compensation Act, 1923 whereby the respondent-insurance company has been directed to deposit Rs.26,199/- within one month from the date of order.

Counsel for the petitioners has submitted that the petitioners (legal heirs of Leelu Ram) filed claim petition before the Commissioner, Workmen's Compensation (in short 'the Commissioner') on account of death of Leelu Ram @ Om Dutt while employed as helper with M/s Bajrang Floor Mills, respondent No.2. The Commissioner passed the award and respondent-insurance company through its Divisional Manager, Hisar was directed to deposit a sum of Rs.1,99,548/- towards compensation and Rs.1,20,993/- towards interest i.e. total Rs.3,20,541/- with the stipulation to deposit the aforesaid amount within 30 days, failing which the insurance company being liable to pay simple interest @ 12% per annum on the amount of compensation only from the date of order till its realization. It is further submitted that the respondent deposited a sum of Rs.1,99,548/- within the stipulated period of 30 days and preferred an appeal before this Court against the said order. The appeal preferred by the respondent came to be dismissed by this Court vide order dated 25.09.2012 (Annexure P2). Later the respondent paid Rs.96,794/- on 17.12.2013 vide cheque No.167849 after deducting TDS amounting to Rs.24,199/-. It is argued with vehemence that as the petitioners were awarded compensation of Rs.1,99,548/- and interest Rs.1,20,993/-, a sum of Rs.1,99,548/- initially deposited by the respondent was appropriated by the petitioners firstly towards payment of interest of Rs.1,20,993/- and the remaining amount of Rs.78,555/- towards principal qua amount of Rs.1,99,548/-, therefore, amount of Rs.1,20,000/- (approximately) remained due and payable by the respondent. It is argued with vehemence that respondent No.2 is liable to pay interest @12% per annum on the outstanding amount of Rs.1,20,000/- (approximately) from the date of award till its actual payment, therefore, the order dated 28.05.2014 directing the respondent to deposit Rs.26,199/- only qua TDS deducted by the respondent is liable to be modified.

Counsel for the respondent, on the contrary, would urge that as interest was not payable on the amount of interest of Rs.1,20,993/- nothing remains due and payable by the respondent after payment of a sum of Rs.26,199/- in compliance of order dated 28.05.2014.

I have heard counsel for the parties, perused the paper book particularly various annexures appended with the petition.

There is no dispute between the parties with regard to factual controversy qua amount deposited by the respondent from time to time after the award was passed in favour of the petitioners on 31.12.2009. As has been rightly argued by counsel for the petitioners, the petitioners were at liberty to appropriate the first payment of Rs.1,99,548/- towards interest to the tune of Rs.1,20,993/- and the remaining amount towards compensation. After adjustment of first payment made by the respondent, respondent was liable to pay remaining compensation of Rs.1,20,000/- approximately to the petitioners along with interest @ 12% per annum from the date of award till its actual realization. Accordingly, the petitioners shall be entitled to interest @ 12% per annum on the outstanding amount of approximately Rs.1,20,000/- from the date of award till its actual payment/deposit by the insurance company. The order passed by the Commissioner disposing of the execution proceedings is modified accordingly.

For the foregoing reasons, the petition is partly allowed in the aforesaid terms.

31.05.2018 **(REKHA MITTAL)**
ashok **JUDGE**

Whether speaking/reasoned: Yes / No
Whether reportable: Yes / No