

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

FAO No. 2603 of 2013

DATE OF DECISION : 19.02.2018

Gurcharan Singh

.... APPELLANT

Versus

Ranjit Singh alias Bittu and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Aminder Singh, Advocate,
for the appellant.

Mr. R.N. Singal, Advocate,
for respondent No.3.

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AVNEESH JHINGAN, J. (Oral)

This appeal has arisen from the award dated 19.10.2012 passed by the Motor Accident Claims Tribunal, Sangrur (for short, 'the Tribunal')

2. An accident took place on 31.05.2010. The appellant along with his friend Nirbhai Singh was going on a scooter bearing registration No. PB 42-5246. When they just crossed the grain market, Bhawanigarh and reached near the Markfed Godown, their scooter was struck by a rashly and negligently driven car bearing registration No. HR 23A-8559. As a result of the accident, the appellant suffered injuries and was taken to Civil Hospital, Bhawanigarh, from where he was referred to Rajindra Hospital, Patiala and then taken to DMC, Ludhiana. FIR No. 66 dated 05.06.2010 was registered

at Police Station Bhawanigarh.

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

4. The Tribunal awarded a sum of ₹ 2,16,919/-. However, no interest was awarded. The interest was awarded only if payment was not made within two months from the date of the award. The amount awarded included a sum of ₹ 2,08,919/- for medical expenses.

5. The present appeal has been filed for enhancement of compensation.

6. I have heard learned counsel for the parties and perused the paper book as well as the record.

7. Learned counsel for the appellant assailed the award arguing that the amount awarded under various heads, like loss of income during the period of hospitalisation, pain and suffering, special diet and attendant, is on the lower side. He further argued that the appellant suffered 10% permanent disability qua limb but no amount has been awarded for permanent disability and the Tribunal erred in not awarding interest.

8. Learned counsel for the insurer defended the award and argued that no case has been made out for enhancement of compensation. He argued that just and equitable amount has been awarded. Interest has also been awarded if amount was not paid within two months.

9. The appellant remained hospitalised for almost 20 days. He had suffered injuries on his right leg which resulted into 10% permanent

disability qua limb. It was held that he was a transporter owning two trucks. The Tribunal, while awarding compensation, apart from awarding the medical expenses, has just awarded a sum of ₹ 8,000/- under various heads. The appellant suffered disability. He was hospitalised, operated upon and there was second surgery for plating. In such circumstances, while awarding compensation, the pain and suffering; amount spent on special diet; attendant charges; and loss of income have to be considered. Even the compensation for permanent disability should be awarded. In the present case, it has not come on record that to what extent functional ability of the appellant had been effected by the injuries suffered in the accident. Since the case has been pending for a number of years, instead of remanding the matter back to the Tribunal, it is deemed appropriate that the amount awarded by the Tribunal is enhanced by a sum of ₹ 1,50,000/-.

10. The award dated 19.10.2012 is modified to the extent that the amount of ₹ 2,16,919/-awarded by the Tribunal is enhanced by ₹ 1,50,000/-.

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

12. The Supreme 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.”

12. In *National Insurance Company Ltd. vs. Keshav Bahadur, (2004) 2 SCC 370*, the Supreme 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.

13. 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.

14. In the above referred decision, the Supreme Court has held that the Tribunal while awarding compensation should deal with the awarding of interest separately.

15. In the facts and circumstances of the case, interest @ 6% per annum is awarded to the claimants on original amount, if not already paid because of the delay in payment, as well as the enhanced amount from the

date of filing the claim petition till the realisation of the amount.

16. The appeal is disposed of in the aforesaid terms.

February 19, 2018
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes