

231

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

**FAO No.7570 of 2016
Date of Decision: 14.11.2018**

Manjit Kaur and another

Appellants

Versus

Paramjit Suman and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Bhupender Singh, Advocate for
Mr. Munish Gupta, Advocate
for the appellants.

Ms. Shamsheer Kaur, Advocate
for the Insurance Company.

AVNEESH JHINGAN, J (Oral):

The unfortunate parents, who lost their son Happy (deceased), aged 22 years in a motor vehicular accident which took place on 31.08.2014, are in appeal against award dated 21.07.2016 passed by Motor Accident Claims Tribunal, Hoshiarpur (for brevity 'the Tribunal').

The driver of motorcycle bearing temporary registration No. PB-07Z-6464/Permanent registration No. PB-07AT-2330 (hereinafter referred to as 'offending vehicle'); owner of offending vehicle and insurer of offending vehicle i.e. National Insurance Company Limited have been arrayed as respondents No.1 to 3, respectively in this appeal.

The brief facts necessary for adjudication of the present appeal are that on 31.08.2014, Happy was going to Baba Balak Nath Mandir, Himachal Pradesh alongwith Baldev Raj on motorcycle bearing registration No. PB-09R-9587. When they reached near village Harkhowal, their motorcycle was struck by rashly and negligently driven offending vehicle. As a result of the impact, both the occupants of motorcycle suffered injuries. Happy succumbed to injuries on the way to the Hospital. FIR No.94, dated 31.08.2014 was registered at Police Station Mehtiana.

Parents of the deceased filed claim petition under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act'). The Tribunal, after considering the facts and appreciating the evidence adduced, held that accident occurred due to rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay compensation. The Tribunal awarded a sum of ₹13,27,000/-. It was ordered that compensation shall be paid within three months, failing which the claimants will be entitled to receive interest @ 7.5% per annum from the date of filing of the claim petition i.e. 18.08.2015 till realization of the amount.

The only issue raised by learned counsel for the appellants is that the Tribunal has not awarded interest as per provisions of Section 171 of the Act.

Learned counsel for the Insurance Company contended that interest to be awarded under Section 171 of the Act is discretion

of the Tribunal and hence no interference is called for.

The contention raised by learned counsel for the appellants deserves acceptance.

It is pertinent to note that the Tribunal has not recorded any reason for not awarding interest in the facts of the present case.

Section 171 of the Act is quoted below:

171. Award of interest where any claim is allowed-
Where any Claims Tribunal allows a claim for compensation made under this Act, such Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf.

The Supreme Court in **Dharampal and others Vs. U.P. State Road Transport Corporation 2008(12) SCC 208** 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.

9. 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 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.

10. 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”

It was held that even though word 'may' is mentioned in Section 171 of the Act, a duty is casted upon the Tribunal to consider the issue of interest separately.

In present case, there is no reason to deny interest to the claimants. It is held that claimants are entitled to compensation awarded by the Tribunal alongwith interest @ 7.5% p.a. from the date of filing of the claim petition till the realisation of amount.

The appeal is partly allowed in the aforementioned terms.

[AVNEESH JHINGAN]
JUDGE

November 14, 2018
pankaj baweja

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| 1. Whether speaking/ reasoned | : | Yes/ No |
| 2. Whether reportable | : | Yes/ No |