

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(119)

CR No. 284 of 2021

Date of Decision : 16.02.2021

New India Assurance Co. Ltd.

...Petitioner

Versus

Harjit Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vinod Gupta, Advocate for the petitioner.

Harsimran Singh Sethi J. (Oral)

Present petition has been filed challenging the order dated 07.02.2020 (Annexure P-1) passed by the Executing Court, Amritsar, by which Insurance Company has been directed to make the payment of Rs. 5,49,000/- alongwith interest as awarded by the Motor Accident Claims Tribunal, Amritsar, which Award has already attained finality.

Learned counsel for the petitioner-Insurance Company argues that the Award dated 10.01.2012, according to which, the claimants were held entitled for a sum of Rs. 29,67,170/- alongwith interest @ 6% per annum was challenged by the petitioner-Insurance Company by filing FAO No. 2747 of 2012 and on the prayer of the petitioner-Insurance Company, this Court stayed the disbursal of compensation amount beyond 50% of the total amount awarded by the Tribunal subject to the condition that the entire awarded compensation amount be deposited with the Tribunal and the said order was duly complied with by the petitioner-Insurance Company. Learned counsel appearing on behalf of the petitioner-Insurance Company submits that the said FAO No. 2747 of 2012 was ultimately dismissed by

this Court and the compensation awarded in favour of the claimants was enhanced, which enhancement has already attained finality.

The claimants filed execution claiming the payment of balance amount of compensation awarded to them alongwith interest awarded by the Competent Court of Law upto the date of actual release of the compensation amount and the claim of interest upto the date of actual disbursement of compensation to the claimants was being opposed by the petitioner-Insurance Company on the ground that the disbursal of 50% of the amount of the compensation was stayed by this Court though, the total compensation had already been deposited before the Tribunal with interest upto the said date and their liability to pay interest upon the deposit of the compensation in the Tribunal had come to an end.

In the present petition, the order passed by the Executing Court dated 07.02.2020 (Annexure P-1) is being challenged where the claimants have been held entitled for interest on the amount which is being released to them now upto the date of actual receipt of the compensation amount by the claimants. Learned counsel for the petitioner argues that once, the disbursal of the amount to the claimants was stayed by this Court while passing order in FAO No. 2747 of 2012, the petitioner-Insurance Company is not liable to pay the interest upto the date when the compensation is actually paid to the claimants as the total amount for which the claimants were found entitled as compensation, had already been deposited before the Tribunal, thereby ending their liability to pay interest thereafter.

I have heard learned counsel for the petitioner and have gone through the record with his able assistance.

It is an admitted fact that the claimants were never released the

amount beyond 50% of the total compensation awarded to them keeping in view the interim order which the petitioner-Insurance Company had got in their favour in FAO No. 2747 of 2012. It is further a conceded position that the said FAO was ultimately dismissed. Once, the amount for which the claimants were held entitled for by the Tribunal or this Court, was not released to them and that too on the asking of the petitioner-Insurance Company though, the said amount was deposited before the Tribunal, claimants are entitled for interest upto the date when they actually received the compensation as claimants never received the said amount though, same remained deposited with the Tribunal. Non-payment of compensation to the claimants was on the prayer of the petitioner-Insurance Company. The said interim order cannot be allowed to operate to the detriment of the claimants, which was secured by the petitioner themselves against the claimants once the main FAO was subsequently dismissed.

Further as per the Award, on the awarded compensation interest was to be paid till the amount is paid to the claimants. That being so the amount was deposited by the petitioner-Insurance Company before the Tribunal but the same was never released to the claimants and that too on the asking of the petitioner, who had got a restraint order for the payment of the compensation. Petitioner cannot take the benefit of their own action now to contend that after the deposit of the amount before the Tribunal, even if the same was not released to the claimants, will not carry interest. Petitioner should have been vigilant enough to pray that the amount of compensation to be deposited before the Tribunal should be kept in fixed deposit so as to generate interest on the deposited amount, which would have secured the interest of the petitioner as well. Claimants cannot be

caused prejudice due to the said inaction on the part of the petitioner-Insurance Company by denying the claimants interest on the awarded amount upto the date of release of the amount as the same is being released to them now.

The order passed by the Executing Court has considered the prayer of the petitioner in detail in view of the settled principle of law and has found that the deposit of the amount before the Tribunal cannot be treated as execution of the Award and the claimants will be entitled for interest up to the date they received the amount.

Learned counsel for the petitioner-Insurance Company has not been able to show before this Court as to how, the order impugned is perverse or is contrary to the settled principle of law. Rather, no argument has been raised by the learned counsel to contend that the provisions of CPC as well as the law taken into account by the Executing Court are not applicable in the facts and circumstances of the case to hold that the claimants are entitled for interest on the compensation awarded upto the date of the receipt of the compensation by the claimants.

Keeping in view the above, no interference is called for by this Court in the impugned order dated 07.02.2020 (Annexure P-1).

Accordingly, the petition is dismissed.

February 16, 2021
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes