

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

RA-CR-10-2022 in
FAO-3141 of 2010
Reserved on : 20.05.2022
Date of Pronouncement: 27.05.2022

Bimla Devi (D) thr. LRs and another

...Applicant/Appellants

Versus

Baj Singh and others

...Non-applicant/Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. R.S. Rangpuri, Advocate
for the applicant/appellants.

Mr. Raj Kumar, Advocate
for non-applicant/respondent No.3.

H.S. MADAAN, J.

1. One Dharampal died in a motor vehicular accident which took place on 27.11.2005 at about 5.00 am in the area of Tarn Taran by-pass due to overturning of bus No.PB-305-C-8499. In that bus Dharampal, his wife Bimla Devi and others were travelling. The bus was being driven by Baj Singh, an FIR No.293 dated 27.11.2005 for offences under Sections 304-A, 279, 337 and 338 IPC was lodged with Police Station City, Tarn Taran regarding the accident against Baj Singh.

2. Legal heirs of Sh. Dharampal deceased namely his widow Smt. Bimla Devi and son Sunil Kumar had brought a claim petition under Section 166 of the Motor Vehicles Act against Baj Singh driver, Iqbal Singh-owner and United India Insurance Company Ltd., Abohar -insurer

of the bus in question.

3. On getting notice, respondent No.1 driver and respondent No.3 insurance company had put in appearance and contested the claim petition. Motor Accidents Claims Tribunal, Sh. Muktsar Sahib, vide award dated 22.08.2009 had accepted the claim petition and awarded compensation of Rs.5,98,864/- to the petitioner payable by all the three respondents jointly and severally.

4. Finding the compensation awarded to be on lower side, legal heirs of Sh. Dharampal deceased had approached this Court by way of filing an appeal, notice of which was given to the respondents. Respondent No.3-insurance company had put in appearance. Vide judgment dated 07.01.2022, the appeal was finally disposed of and the compensation awarded by the Tribunal was enhanced to Rs.13,13,320/-. In that way, additional compensation of Rs.7,14,456/- with interest @ 7.5% p.a., from the date of filing of appeal till actual realization was granted.

5. Now the appellants have filed an application under Order 47 Rule 1 read with Section 151 CPC for review of that judgment/order so as to grant interest on the enhanced amount of compensation from the date of filing the claim petition instead from the date of filing of appeal. Notice of that application has been given to the insurance company which has put in appearance through counsel.

6. I have heard learned counsel for the parties besides going through the record.

7. Learned counsel for the applicants has referred to judgment

by the Apex Court i.e. Kajal Vs. Jagdish Chand and others, 2020(2)

RCR (Civil) 27 where in para No.31 of the judgment, the question of grant of interest on enhanced compensation in appeal has been discussed.

For ready reference, that para is reproduced as under:-

“31. The High Court enhanced the amount of compensation by Rs.14,70,000/ and awarded interest @ 7.5% per annum but directed that the interest of 7.5% shall be paid only from the date of filing of the appeal. This is also incorrect. We are constrained to observe that the High Court was not right in awarding interest on the enhanced amount only from the date of filing of the appeal. Section 171 of the Act reads as follows:

“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.”

Normally interest should be granted from the date of filing of the petition and if in appeal enhancement is made the interest should again be from the date of filing of the petition. It is only if the appeal is filed after an inordinate delay by the claimants, or the decision of the case has been delayed on account of negligence of the claimant, in such exceptional cases the interest may be awarded from a later date. However, while doing so, the tribunals/High Courts must give reasons why interest is not being paid from the date of filing of the petition. Therefore, we direct that the entire amount of compensation including the amount enhanced by us shall carry an interest of 7.5% per annum from the date of filing of the claim petition till payment/deposit of the amount.”

8. Learned counsel for the insurance company has contended that the insurance company was not responsible for delay in disposal of

the appeal and rather the record of the case had got burnt in the fire which broke out in the record room of this Court, therefore, the insurance company be not burdened further by making it liable to pay interest on enhanced amount from the date of filing of claim petition instead of date of filing of appeal.

9. After considering the rival contentions and going through the judgment referred to by learned counsel for the applicant/appellants, I find that the application deserves to be accepted, and the appellants are found entitled to get interest on the enhanced amount of compensation awarded to them by acceptance of appeal from the date of filing of claim petition instead of from the date of filing of appeal.

10. Here it is pertinent to mention that there was no inordinate delay in filing of the appeal by the appellants, rather, there was delay of only 02 days and an application under Section 5 of the Limitation Act for condonation of such delay having been filed. The application had been accepted and delay had been condoned.

11. If the record of the case got burnt in the fire which broke out in the record room of this Court in the process delaying the adjudication of the appeal and if the appeal so filed was not taken up for hearing by this Court, the blame cannot be put on the shoulders of the appellants. Therefore, no reason is there to deny the relief as sought by the applicant/appellants. The application is accordingly accepted, and the applicant/appellants are ordered to be granted interest @ 7.5% p.a., on the enhanced/additional amount of compensation of Rs.7,14,456/- from the date of filing of claim petition till actual realization, as prayed for.

12. Except for this modification, the remaining judgment passed on 07.01.2022 shall remain as such.

27.05.2022
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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No