IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No.3699 of 2022
Date of Decision: September 07, 2022

Cholamandalam MS General Insurance Company Ltd.

...Petitioner

Versus

Himanshu @ Ashu & others

...Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr.Vishal Aggarwal, Advocate,
for the petitioner.

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MANOJ BAJAJ, J.

Petitioner has filed this revision petition under Article 227 Constitution of India to challenge the order dated 20.04.2022, whereby Motor Accident Claims Tribunal, Rohak in Execution Petition No.57 of 2021, has directed the petitioner to deposit interest @ 8% per annum as per directions contained in award dated 04.02.2021.

Learned counsel for the petitioner has argued that the claimant/injured, namely, Himanshu @ Ashu brought a MACT Petition No.8 seeking compensation under Section 166 Motor Vehicles Act, 1988 on account of injuries suffered by him in a vehicular accident on 08.04.2017 and the said claim was accepted vide award dated 04.02.2021. According to him, the claimant was held entitled to compensation of ₹ 22,45,000/- along with simple interest @ 7% per annum from the date of institution of the claim petition and at the same time, it was ordered that the same be deposited within a period of three months and in the event of failure of the deposit, the interest shall be at the rate of 8% per annum.

Learned counsel has argued that the provisions contained in the Motor Vehicles Act, 1988 do not contemplate imposition of higher interest rate and this part of the award would amount to imposing penalty upon the Insurance Company. In support of his argument, he has placed reliance upon the decision of the Hon'ble Supreme Court in **National Insurance Co.Ltd. Versus Keshav Bahadur and Ors., 2004(2) R.C.R. (Civil) 99.** He submits that the executing court has, therefore, exceeded its jurisdiction in directing the Insurance Company/petitioner to deposit interest at the higher rate of 8% per annum. He prays that the impugned order be set-aside.

During the course of hearing, it is not disputed by Mr.Vishal Aggarwal, learned counsel for the petitioner that the award dated 04.02.2021 already stands challenged by the petitioner in FAO No.790 of 2021, which is still pending adjudication. He fairly states that by way of interim order dated 17.08.2021 passed by this court in the said FAO, the Insurance Company was directed to deposit the entire amount of compensation along with interest and costs within one month. The order is on record as Annexure P-3.

After hearing the learned counsel and considering the above background, this court finds that though the award dated 04.02.2021 is under challenge in the first appeal, but concededly in the said appeal, this issue relating to the interest, purported to be the penal interest, has not been raised. Mr.Vishal Aggarwal, learned counsel fairly states that no such ground is pleaded in the appeal. Apart from it, this court finds that once the order dated 17.08.2021 passed by appellate court stands accepted by the petitioner-appellant, whereby it was directed that the entire amount of compensation along with interest be deposited, the issue regarding interest alone cannot be raised before the executing court as the jurisdiction of the said court is limited. Thus, the decision relied upon by the learned counsel in Keshav Bahadur's case (supra) is of no help to the case of the petitioner.

Resultantly, no case is made out for interference, as the impugned order does not suffer from any illegality or impropriety.

Dismissed.

September 07, 2022 **(MANOJ BAJAJ)**
ramesh **JUDGE**

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