

In the High Court of Punjab and Haryana, at Chandigarh**Civil Revision No. 142 of 2021 (O&M)****Date of Decision: 22.09.2023**

M/s Oriental Insurance Company Limited

... Petitioner(s)

Versus

Dr. Kamlesh Bhalla and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.Present: Mr. Sanjiv Pabbi, Advocate
for the petitioner(s).Mr. Rajesh Arora, Advocate
for the respondent No.1.**Anil Kshetarpal, J.**

1. Pursuant to the award passed by the Motor Accidents Claims Tribunal, Gurgaon (hereinafter referred to as “the Tribunal”), the execution petition was filed by the claimants to recover the amount awarded by the Tribunal along with the interest.

2. On 28.8.2020, the Executing Court accepted the calculation submitted by the decree holder while directing the State Bank of India to release the amount of ₹33,70,867/- in favour of the claimants. The insurance company (judgment debtor) has filed an application for directing the decree holder to refund the excess amount as there was an error in the calculation of the amount. It was pointed out that the claimants have calculated the amount while calculating the amount along with the compound rate of interest which was never awarded by the Tribunal. However, the Executing Court has

refused to go into the aforesaid issue on the ground that deciding the

question of calculation would amount to revisiting the order dated 28.08.2020. The Court has also observed that the Executing Court cannot revisit the said order except on the permissible grounds of review.

3. The correctness of the aforesaid order has been challenged in this revision petition.

4. On the one hand, the learned counsel representing the insurance company submits that the Tribunal never directed the payment of compensation along with the compound interest. Whereas, on the other hand, the learned counsel representing the respondent-claimants submits that the amount remained with the insurance company from the year 2012, therefore, they are entitled to the bank rate of interest.

5. This Court has considered the submissions of the learned counsel representing the parties. An application filed to draw the attention of the Court to a calculation error does not strictly fall in the scope of the review petition. The petitioner is not praying for review on the merits of the case. Once the attention of the Court has been drawn to a calculation error, the Executing Court was required to examine the same. In such circumstances, the order dated 06.11.2020, is modified while directing the Executing Court to examine the error in the calculation pointed out by the insurance company and thereafter, decide the same in accordance with the law.

6. With the observations made above, the present revision petition is disposed of.

7. The parties, through their learned counsel, are directed to appear before the Executing Court on 20.10.2023.

8. The miscellaneous application(s) pending, if any, shall stand disposed of.

September 22, 2023
“DK”

(Anil Kshetarpal)
Judge

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No