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

CR-449 of 2019
Reserved on: 14.07.2023
Date of pronouncement: 09.08.2023

Suresh Devi

......Petitioner

Versus

The New India Assurance Co. Ltd. And others

......Respondents

**CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**

Present: - Mr. Amit Kumar Jain, Advocate, for the petitioner.

Mr. Vinod Chaudhri, Advocate, for respondent No.1-Insurance Company.

**NAMIT KUMAR, J.**

1. This revision petition has been filed by petitioner/decree-holder under Article 227 of the Constitution of India for setting aside impugned order dated 17.11.2018 passed by Motor Accident Claims Tribunal, Jind, whereby application filed by respondent No.1-Insurance Company for refund of amount of interest from 02.09.2014 to 19.08.2017 has been allowed.

2. Brief facts of the case are that petitioner and her son filed a claim petition under Section 166 of the Motor Vehicles Act claiming a sum of Rs.20 lakh as compensation along with interest @ 18% per annum on account of death of Tara Chand in a motor vehicular accident on 30.07.2010. The claim petition was partly allowed on 02.06.2011

and a sum of Rs.6,26,192/- was awarded to the claimants along with interest @ 9% per annum from the date of filing of the claim petition till its actual realisation. Respondent No.1-Insurance Company filed FAO-6345 of 2011 against the aforesaid award in which initially 50% of the awarded amount was stayed vide order dated 18.10.2011 and thereafter, the same was dismissed by this Court vide judgment dated 05.03.2014. After dismissal of its appeal, respondent No.1-Insurance Company deposited a sum of Rs.3,25,000/- on 12.04.2014 and Rs.25,000/- on 02.09.2014. Thereafter, petitioner filed execution petition for recovery of the awarded amount on 19.08.2017 and a sum of Rs.5,49,500/- was paid by the Insurance Company to the petitioner as balance of awarded amount along with interest. Thereafter, respondent No.1-Insurance Company filed an application for refund of interest amount from 12.04.2014 till 19.08.2017 on the ground that it had already deposited the amount of Rs.3,25,000/- on 12.04.2014 to avoid burden of interest, which has been allowed by the Executing Court vide impugned order dated 17.11.2018. Hence, this revision petition.

3. Learned counsel for the petitioner contended that impugned order passed by the Executing Court is based on surmises and conjectures as the same has been passed without taking into consideration the provisions of Order 21 Rule 1(2) CPC. He further submitted that no notice or intimation regarding deposit of awarded amount by the Insurance Company was given to the petitioner. Therefore, the impugned order is not sustainable in the eyes of law and

is liable to be set aside. In support of his contentions, learned counsel for the petitioner has placed reliance on the judgments of the Hon'ble Supreme Court in ***Rajasthan State Road Transport Corporation, Jaipur v. Poonam Pahwa, 1997(3) R.C.R.(Civil) 451; Bharat Heavy Electricals Ltd. v. R.S. Avtar Singh and Co., 2013(1) R.C.R.(Civil) 252*** and the judgment of Delhi High Court in ***Sobat Singh v. Ramesh Chandra Gupta and another, 2010(14) R.C.R.(Civil) 366***.

4. *Per contra*, learned counsel for respondent No.1-Insurance Company submitted that the impugned order is perfectly legal and valid. He contended that after dismissal of its appeal, respondent No.1-Insurance Company had deposited the entire amount without any delay. Therefore, the amount of interest has rightly been ordered to be refunded to respondent No.1-Insurance Company and the present revision petition is liable to be dismissed.

5. I have heard learned counsel for the parties and perused the record.

6. Order 21 Rule 1(2) CPC reads as under: -

> *"(1) All money, payable under a decree shall be paid as follows, namely-*
>
> > *(a) by deposit into the Court whose duty it is to execute the decree, or sent to that Court by postal money order or through a bank; or*
> >
> > *(b) out of Court, to the decree-holder by postal money order or through a bank or by any other mode wherein payment is evidenced in writing; or*
> >
> > *(c) otherwise, as the Court which made the decree, directs.*

*(2) Where any payment is made under clause (a) or clause (c) of sub rule (1), the judgment-debtor shall give notice thereof to the decree-holder either through the Court or directly to him by registered post, acknowledgement due.*

*(3) Where money is paid by postal money order or through a bank under clause (a) or clause (b) of sub-rule (1), the money order or payment through bank, as the case may be, shall accurately state the following particulars, namely-*

*(a) the number of the original suit;*

*(b) the names of the parties or where there are more than two plaintiffs or more than two defendants, as the case may be, the names of the first two plaintiffs and the first two defendants;*

*(c) how the money remitted is to be adjusted, that is to say, whether it is towards the principal, interest or costs;*

*(d) the number of the execution case of the Court, where such case is pending; and (e) the name and address of the payer.*

*(4) On any amount paid under clause (a) or clause (c) of sub-rule (1) interest, if any, shall cease to run from the date of service of the notice referred to in sub-rule (2).*

*(5) On any amount paid under clause (b) of sub-rule (1) interest, if any, shall cease to run from the date of such payment:*

*Provided that, where the decree-holder refuses to accept the postal order or payment through a bank, interest shall cease to run from the date on which the money was tendered to him, or where he avoids acceptance of the postal money order or payment through bank, interest shall cease to run from the date on which money would have been tendered to him in the ordinary course of*

> *business of the postal authorities or the bank, as the case may be."*

7. In ***Rajasthan State Road Transport Corporation's*** case (supra) the Hon'ble Supreme Court has held as under: -

> *"25. Order 21 Rule 1 Civil Procedure code as amended in 1976 expressly provides that the judgment debtor shall give notice of the deposit of the decretal amount to the decree holder either through the Court or directly to the decree holder. The obligation of giving the notice to the decree holder is not absolved by simply depositing the amount without taking steps to ensure service of the notice of such deposit to the decree holder through Court or otherwise. Therefore, the appellant cannot escape its liability to pay interest to the decree holder for the period between the date of deposit of the decretal amount and the date of notice of such deposit of the decree holder.*
>
> *x x x x*
>
> *It appears to us that the provisions of Order 21 Rule 1 are not in any way inconsistent with the provisions for awarding just and fair compensation in Motor Accident Claims. The real purpose of awarding just and fair compensation to the victim of the accident or the legal heirs of such victim will be fulfilled by applying the principle of Order 21 Rule 1 Civil Procedure code so that the awardee is not deprived of the opportunity of gainfully utilising the amount under the award for want of notice about the deposit made by judgment debtor resulting in the sum remaining unutilised. In our view, therefore, there is no difficulty to apply the underlying principles under Order 21, Rule 1 Civil Procedure Code in executing the award of compensation passed by the Motor Accidents Claims Tribunal and the Tribunal must be held to be*

*competent to invoke the beneficial provisions of Order 21 Rule 1 Civil Procedure Code."*

8. From the reading of the above provisions and the law laid down by the Hon'ble Supreme Court, it is clear that when the decretal amount is deposited by the judgment-debtor in the Court, it is imperative upon the judgment-debtor to give notice to the decree-holder about the deposit of the decretal amount. The interest ceases to run on the deposit made by the judgment-debtor and notice given or on the amount being tendered outside the Court in the manner provided in Order 21 Rule 1(b). However, the interest will not cease to run merely by reason of making the deposit into Court unless it is followed by the service of notice meaning thereby the decree-holder's right should be affected only after he is informed that the decretal amount is available for him and that he can draw it out of Court.

9. In the present case, no notice of deposit of amount of award was given to the petitioner/claimants either by respondent No.1-Insurance Company nor by the Tribunal. Thus, there is serious violation of the principles laid down in Order 21 Rule 1 CPC by the Insurance Company as well as the Tribunal, which resulted in unreasonable delay in releasing the amount of award and loss of interest to the petitioner/claimants. Consequently, the present revision petition is allowed and the impugned order dated 17.11.2018 passed by the Executing Court is set aside. In case the amount of interest has been refunded to respondent No.1-Insurance Company, same shall be

deposited with the Tribunal and notice of deposit shall be given to the petitioner/claimants in accordance with Order 21 Rule 1 CPC.

**(NAMIT KUMAR)**
**JUDGE**

09.08.2023
R.S.

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No