IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

215-2.

**CM-44-CII-2021 in
RA-CR-1-2021 in
FAO-1462-2013
Date of decision:20.02.2025**

GOPI AND ANR. ...APPELLANT

VS.

BABU LAL & ORS. ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Pradeep Kumar, Advocate
for the applicant/respondent No.3.

Mr. Anil Kumar Sharma, Advocate
for the non-applicant/appellants.

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SUVIR SEHGAL J. (ORAL)

CM-44-CII-2021

1. For the reasons given in the application, it is allowed.

2. Delay of 101 days in the filing of the review application by the Insurance Company-applicant/respondent No.3 is condoned.

RA-CR-1-2021

3. By way of present application, applicant/respondent No.3 has sought review of order dated 05.11.2019 passed by this Court insofar as default interest @ 15% with quarterly rests has been levied on the compensation amount to be paid one month after the expiry of the order.

4. Counsel for the applicant has placed reliance upon Section 171 of the Motor Vehicles Act, 1988, as well as the judgment of the Supreme Court in ***National Insurance Company Limited Vs. Keshav Bahadur and others*, 2004 (2) SCC 370** to contend that there can be no scope for retrospective enhancement of interest for default in payment of compensation. In ***Keshav Bahadur's case***, Supreme Court has observed as under:-

> *"13. Though Section 110CC of the Act (corresponding to Section 171 of the new Act) confers a discretion on the Tribunal to award interest, the same is meant to be exercised in cases where the claimant can claim the same as a matter of right. In the above background, it is to be judged whether a stipulation for higher rate of interest in case of default can be imposed by the Tribunal. Once the discretion has been exercised by the Tribunal to award simple interest on the amount of compensation to be awarded at a particular rate and from a particular date, there is no scope for retrospective enhancement for default in payment of compensation. No express or implied power in this regard can be culled out from Section 110CC of the Act or Section 171 of the new Act. Such a direction in the award for retrospective enhancement of interest for default in payment of the compensation together with interest payable thereon virtually amounts to imposition of penalty which is not statutorily envisaged and prescribed. It is, therefore directed that the rate of interest as awarded by the High Court shall alone be*

applicable till payment, without the stipulation for higher rate of interest being enforced, in the manner directed by the Tribunal."

5. By virtue of order dated 05.11.2019, this Court has granted period of one month to the Insurance Company to deposit the enhanced compensation with interest @ 7.5% per annum. Interest @ 15% per annum has been levied in case the Insurance Company fails to deposit the enhanced amount within the period of one month. This Court has not imposed higher rate of interest with retrospective effect, but after expiry of one month from the order. Therefore, rate of interest does not require to be reviewed.

6. However, there is substance in the submission made by counsel for the applicant that interest with quarterly rest has been levied in breach of Section 171, Motor Vehicles Act, 1988. Accordingly, order dated 05.11.2019 passed by this Court is modified and its penultimate para shall read as under:-

"It is, however, made clear that non-deposit of enhanced amount of compensation within the stipulated period would entail simple interest @ 15% per annum after the expiry of one month of the date of this order."

7. Review application is disposed off with the above modification.

20.02.2025 **(SUVIR SEHGAL)**
sheetal **JUDGE**

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No