
(2005) 07 RAJ CK 0025

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 3 of 2005

Niroti and Another

APPELLANT

Vs

Judge, Motor Accident Claims Tribunal and Another

RESPONDENT

Date of Decision : 15-07-2005

Acts Referred:

Citation : (2006) 3 ACC 139 : (2006) 1 RLW 554 : (2006) 1 WLC 724

Hon'ble Judges : J.R. Goyal, J;Gyan Sudha Mishra, J

Bench : Division Bench

Advocate : Rajneesh Gupta, for the Appellant;

Final Decision : Dismissed

Judgement

G.S. Misra, J.—This appeal has been preferred against the judgment and order of the learned single judge who has been pleased to dismiss the writ petition and upheld the order of the executing court which has refused to award interest to the appellants-claimants on the amount of compensation from the date of the filing of the application but awarded interest from the date of the judgment and order passed on 15.2.2001 by the learned single judge.

2. To clarify the aforesaid position it may be stated that the appellants initially had filed a claim petition before the Motor Accident Claims Tribunal which was dismissed but they succeeded in appeal before the High Court, where the claim was allowed and a sum of Rs. 1,50,000/- was determined by way of compensation, besides Rs. 2000/- towards funeral expenses, and accordingly an award was passed in favour of the appellants. The learned single judge while allowing this appeal also held that the claimant - appellants shall be entitled to interest on the amount of compensation at the rate of 10% per annum, but it did not record specifically from which date the rate of interest shall be calculated, meaning thereby, there was no specific order whether the interest would be payable from the date of the judgment and order of the learned single judge or it would be calculated from the date of filing of the application. This became the

point of dispute before the executing court where the appellants had filed an application for execution of the award.

3. The executing court, while computing the amount of compensation payable to the appellants, allowed payment of interest from the date of the judgment and order of the learned single judge essentially for the reason that the interest was held payable from the date when the appeal of the appellants was allowed and their claim petition was accepted but it did not at all specify whether the interest shall be paid from the date of the application or from the date of passing the order allowing the claim. The learned single judge thereafter, who entertained the writ petition against the order of the executing court, refused to award interest from the date of filing of the application but allowed interest from the date of the judgment passed in the appeal which had allowed the claim petition. The learned single judge, vide the impugned speaking judgment and order was thus pleased to reject the writ petition upholding the order of the executing court. This special appeal has been preferred against the aforesaid judgment and order of the learned single judge.

4. It was submitted on behalf of the appellants that although there is no categorical direction in the judgment and order of the learned single judge passed earlier, on 15.2.2001, while allowing the appeal and the claim petition determining compensation, the executing court was legally bound to grant interest from the date of filing of the application and not merely from the date of the judgment and order allowing the claim petition.

5. But we are not inclined to accept this contention and agree with the learned single judge that since in the order passed in appeal allowing the claim petition of the appellants there was no categorical or specific direction to award interest from the date of application, the plea that the executing court on its own reasoning should have awarded interest from the date of the application cannot be accepted. It is well settled that the executing court cannot go behind the decree and, therefore, in absence of any categorical direction of the learned single judge in the appeal of the appellants to award interest from the date of filing the claim petition while determining the compensation, the executing court has rightly not awarded interest from the date of filing of the application. Besides this legal position, it will also have to be taken note of that the appellants Initially had lost before the Motor Accident Claims Tribunal, Karauli, as their claim petition was dismissed. It is only in appeal that the claim was allowed and once the appellants succeeded in their claim petition for the first time before the appellate forum of the High Court where the compensation was awarded, it is obvious that it was for the learned single judge alone while entertaining the appeal to determine whether the interest should be awarded from the date of the judgment of the High Court or it should be awarded from the date of filing of the application/claim petition. The appellants, in our view, could have sought a clarification from the learned single judge on this point or could have filed a review and still further could have preferred an appeal at the relevant time

against the judgment and order of the learned single judge who had not passed any categorical order awarding interest from the date of filing of the application.

6. This appeal is limited to the extent as to whether the executing court was justified in refusing to pass the order for awarding interest from the date of filing of the application/claim petition. It cannot be denied that the executing court merely had the legal duty to implement the order of the learned single judge passed in the appeal and the appellate order being silent on the question of the award of interest from the date of filing of the application, we find no infirmity in the action of the executing court or in the impugned order of the learned single judge, which had pleased to reject the writ petition preferred against the order of the executing court refusing to award interest from the date of filing of the claim petition in view of absence of such direction by the learned single judge while allowing the claim petition.

7. Consequently, this appeal is dismissed.