

IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 29 OF 2015

STATE OF GOA, THROUGH DIRECTOR
GENERAL OF POLICE/INSPECTOR
GENERAL OF POLICE, PANAJI.

... Appellant

Versus

MRS. MARY VAS @ MARY FERNANDES,
THR. ATTORNEY MRS. LUIZA VAZ AND 2
ORS.,

... Respondents

Mr. Vivek Angelo Rodrigues, Additional Government Advocate for
the appellant.

Mr. S. Redkar, Advocate for the respondent nos.1 and 2.

Coram:- C. V. BHADANG, J.

Date:- 27th July, 2015

P.C.

Heard

2. By this appeal, the State is challenging the order dated 08/04/2015, passed by the learned Presiding Officer, Motor Accident Claims Tribunal, Margao, in Execution Application No.2/2014, by which the application Exhibit 14 filed by the respondents, is allowed and the assets and furniture of the appellant/ judgment debtor, have been attached and directed to be sold in auction.

3. The brief facts are that the respondent nos.1 and 2, who are the legal representatives and dependents of the deceased, had filed Claim Petition No.106/2009 against the appellant, in which, an award has been passed. The State has not challenged the award and thus, the award has attained finality. The respondent nos.1 and 2 have filed an execution case, being Execution Application No.2/2014, for

execution of the award, which is pending before the Motor Accident Claims Tribunal at Margao. In that case, an application exhibit 14 came to be filed on behalf of the first and second respondents for attaching the assets and furniture, which application has been allowed, overruling the objection raised on behalf of the appellant. Feeling aggrieved, this appeal is filed.

4. It is submitted by Shri Rodrigues, the learned Additional Government Advocate for the appellant that the appellant has filed an application for review of the award, in as much as an amount of Rs.50,000/-, which was paid in terms of the order passed under Section 140 of the Motor Vehicles Act, has not been deducted, while passing final award. It is submitted that the appellant has deposited the entire amount of the award before this Court and in that view of the matter also, the impugned order of attachment need not stand.

5. On the contrary, it is submitted by Shri Redkar, the learned Counsel for the first and second respondents that the review application is filed on the date, on which the impugned order was passed. It is submitted that the pendency of the review application has otherwise no bearing on the execution of the award. It is submitted that even otherwise, having regard to the fact that the review is on a limited issue, as to whether the amount of Rs.50,000/- has to be deducted from the final award, the execution of the rest of the award, cannot be withheld.

6. I have considered the rival circumstances and the submissions made.

7. It is not in dispute that the appellant has deposited the entire amount of the award before this Court. It is submitted on behalf of the appellant that in such circumstances, appropriate orders may be passed, in view of the pendency of the review application. I find that the amount deposited by the appellant before this Court can be made over to the Motor Accident Claims Tribunal, which shall deal with the same in terms of the award passed and subject to the outcome of the review application. In view of the fact that the appellant has deposited the entire amount of the award, the impugned order of attachment and sale, need not stand.

8. In such circumstances the appeal is allowed and disposed of in the following terms:

(i) The impugned order is hereby set aside.

(ii) The amount deposited by the appellant, shall be made over to the Motor Accident Claims Tribunal at Margao, which would deal with the same, in accordance with the award passed and subject to the outcome of the review application.

(iii) There shall be no order as to costs.

C. V. BHADANG, J.

SMA