

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

Civil Revision No.3403 of 2015
Date of Decision: February 26, 2016

Nirmal Singh

...Petitioner

Versus

Poonam Devi & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Vinod Khunger, Advocate,
for the petitioner.

Mr.N.S.Sodhi, Advocate,
for the respondents.

AMIT RAWAL, J. (Oral)

The petitioner-judgment debtors are aggrieved of the order dated 16.12.2014, whereby the Motor Accident Claims Tribunal at Ferozepur has, after accepting the amount referred to in the certificate issued by the Motor Accident Claims Tribunal, Gurgaon, has again initiated the recovery proceedings under Section 174 of the Motor Vehicles Act (for short "the Act").

Mr.Vinod Khunger, learned counsel appearing on behalf of the petitioner submits that the Motor Accident Claims Tribunal, Gurgaon passed the award on 7.5.1998. The execution was transferred by way of precept. On appearance of the petitioner, he tendered a draft of ₹2,73,088/- as noticed in the impugned order, which was conforming to the recovery

certificate issued by the Motor Accident Claims Tribunal, Gurgaon. However, the decree holder was not satisfied with the same and requested the Motor Accident Claims Tribunal, Ferozepur to continue with the execution proceedings and the Motor Accident Claims Tribunal, without there being any fresh recovery certificate, initiated proceedings under Section 174 of the Act, which is not sustainable in law.

Mr.N.S.Sodhi, learned counsel has put in appearance on behalf of the respondents and submits that the execution is continuation of the decree and, therefore, there is no illegality and perversity in the order under challenge and prays for dismissal of the revision petition.

I have heard the learned counsel for the parties.

The operative part of the impugned order reads thus:-

“Learned counsel for the decree holders submits that the decree holders in addition to compensation amount as mentioned in Award were also held entitled to recover interest at the rate of 12% per annum from the date of filing of petition till its realization. Said amount if calculated in terms and conditions of Award comes to Rs.4,55,483/-. Total amount to be recovered by the decree holders, as such, comes out to be Rs.6,47,483/-, out of which 2,73,088/- has already been paid to them. Thus, the decree holders are still entitled to recover Rs.3,74,395/-. Requisite certificate as provided under Section 174 of Motor Vehicles Act is ordered to be issued in favour of the decree holders so as to recover Rs.3,74,395/- from the judgment debtors as arrears of land revenue. File be consigned to Record Room.”

It is the conceded position that originally the award was passed by the Motor Accident Claims Tribunal, Gurgaon. Execution was filed and the same was transferred by precept. As per conditional warrant, a sum of ₹2,73,088/- has admittedly been tendered by the petitioner. In case the

decree holder was aggrieved of certain other amounts, the remedy was to move an appropriate application before the Motor Accident Claims Tribunal, Gurgaon and not in the manner and mode which has been adopted by the Additional District Judge, Ferozepur exercising the powers of Motor Accident Claims Tribunal.

Section 174 of the Act provides that in case the amount ordered by the Motor Accident Claims Tribunal is not complied with, it has a power to issue recovery certificate to the Collector for recovery of the same. For the sake of brevity, Section 174 of the Act is reproduced herein below:-

“Where any amount is due from any person under an award, the Claims Tribunal may, on an application made to it by the person entitled to the amount, issue a certificate for the amount to the Collector and the Collector shall proceed to recover the same in the same manner as an arrears of land revenue.”

Since the execution has been received by the Motor Accident Claims Tribunal, Ferozepur, the power to issue the recovery certificate vested with the Motor Accident Claims Tribunal, Gurgaon and not at Ferozepur.

Keeping in view the aforementioned observations, the impugned order is set-aside. The revision petition is allowed. However, it would not preclude the decree holder from seeking execution of the alleged amount by moving an appropriate application before the Motor Accident Claims Tribunal, Gurgaon.

February 26, 2016
ramesh

(AMIT RAWAL)
JUDGE