

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

**Civil Revision No.8359 of 2015 (O&M)
Date of decision : 22.03.2016**

People Bus Service Private Limited

.....Petitioner

Versus

New India Assurance Company Ltd. and another

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

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

Present: Mr. N.S. Chahal, Advocate for
Mr. J.S. Brar, Advocate for petitioner.

DARSHAN SINGH, J.

The present revision petition has been preferred against the order dated 04.01.2014, passed by the learned District Judge, Sri Muktsar Sahib vide which the objections filed by the petitioner in the execution petition No.RT23 of 19.01.2010/21.04.2007 have been dismissed.

2. Learned counsel for the petitioner contended that this Court in FAO No.2776 of 2007 has granted the liberty to the petitioner to take all the pleas, which were taken in the appeal, before the executing

Court at the appropriate stage. He contended that in accordance with that order, the objection petition was filed by the petitioner in the execution petition raising the plea that driver Lakhvir Singh was having the valid driving licence on the date of accident, but that plea has not been taken into consideration by the learned executing Court. Thus, he contended that the objections have been wrongly dismissed by the learned Tribunal.

3. I have duly considered the aforesaid contentions.

4. Manga Ram and another had filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 for grant of compensation on account of death of Harjinderpal Singh son of Mange Ram in the motor vehicular accident, which took place on 29.01.2004. The said claim petition was allowed and a compensation of Rs.1,75,000/- was awarded, but respondent No.1-Insurance Company was granted recovery rights against the petitioner. The petitioner filed FAO No.2776 of 2007 challenging the aforesaid award dated 27.02.2007. The said appeal was dismissed being not pressed by this Court vide order dated 10.09.2009, which reads as under: -

“The learned counsel for the appellant submits that he does not wish to press the present appeal.

Dismissed as not pressed.

However, the appellant would be at liberty to take up all the pleas, which have been taken in the present appeal, before the executing Court at an appropriate stage.”

5. Thereafter, the petitioner filed the objection petition before the learned executing Court. The said objections have been

dismissed by the learned executing Court vide impugned order dated 04.01.2014.

6. There is no dispute that the appeal filed by the petitioner was disposed of by this court vide order dated 10.09.2009 granting liberty to the petitioner to raise all the pleas which have been taken in the appeal at an appropriate stage before the executing Court, but still it was incumbent upon the executing Court to consider the said objections within the parameters of law. The objections were filed to challenge the recovery rights on the plea that Lakhvir Singh, the driver of the vehicle, was having a valid driving licence on the date of the accident and the said driving licence could not be produced in evidence during the trial of the claim petition as their counsel did not inform.

7. The specific issue was framed by the learned Tribunal with respect to the driving licence which reads as under:-

“Whether respondent No.1 was not holding a valid driving licence at the time of accident, if so, its effect? OPR-4”

8. The said issue was decided by the learned Tribunal in favour of the Insurance Company and against the petitioner. The Tribunal has held that the driver was not holding the valid and effective driving licence and due to that reason, the recovery rights were given to the Insurance Company vide award dated 27.02.2007. So, during the trial of the claim petition, the Tribunal has given a specific finding that the driver of the vehicle was not having the valid driving licence. The award is to be executed as a decree passed by the Civil Court. This fact is not

disputed that the said award has already attained finality. The executing Court had no jurisdiction to go beyond the award. The executing Court can not vary or modify the decree/award. Therefore, I do not find any illegality in the impugned order. Thus, the present revision petition is without any merits and the same is hereby dismissed.

22.03.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**