

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

CR No.8562 of 2014

Date of decision: 11.03.2016

Radhey Sham

..... Petitioner.

Versus

Smt. Radha and others

.....Respondents.

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.G.S.Rana, Advocate
for the petitioner.

DARSHAN SINGH, J. (Oral)

The present revision petition has been filed against the order dated 17.10.2014 passed by the learned Motor Accident Claims Tribunal, Karnal (for short 'Tribunal'), vide which the objections filed by the petitioner against the execution of the award dated 07.09.2011 passed by the learned Tribunal, Karnal have been allowed.

2. Learned counsel for the petitioner contended that the respondents no.1 and 2 have filed the claim petition under Section 166 and 140 of the Motor Vehicles Act, 1988 for grant of compensation on account of death of Ishwar Singh in the motor vehicular accident, which took place on 09.08.2008.

Respondent no.1 claimed to be the widow of said Ishwar Singh

and respondent no.2 claimed to be the son of said Ishwar Singh. He contended that the specific plea was raised to this effect before the learned Tribunal. He further contended that, now, the stand of the petitioner has been vindicated with the order dated 22.08.2013 passed by the learned Civil Judge (Jr. Division), Rohtak, vide which the application for *ad interim* injunction moved by respondents no.1 and 2 (plaintiffs of that suit) has been dismissed qua the estate left by deceased Ishwar Singh and the mutation on the basis of inheritance was sanctioned in favour of Harpal Singh son, Saroj Bala and Simple daughters of deceased-Ishwar Singh. Thus, he contended that the impugned award has been obtained by respondents no.1 and 2 by playing fraud with the Court and it was not executable.

3. I have duly considered the aforesaid contentions.

4. It is the settled principle of law that the Executing Court cannot go beyond the decree. The copy of award dated 07.09.2011 shows that the present petitioner who was respondent no.1 in the claim petition has categorically pleaded in the written statement that infact claimant-Radha (now respondent no.1) is Darshana, who was having illicit relations with Ishwar Singh and she is the wife of Arjun and respondent no.2 is the son of Arjun and Darshana. Darshana and Radha is one and the same lady and they were not the legal heirs of deceased-Ishwar Singh.

5. Learned Tribunal had adjudicated upon this controversy under issue no.2 and held that there was sufficient evidence to show that claimant no.1 (present respondent no.1) was wife of Ishwar Singh and claimant no.2 (now respondent no.2) was their son and they were held to be the legal heirs of deceased Ishwar Singh. FAO No. 6850 of 2011 was filed by the petitioner against the award dated 07.09.2011 and in the said FAO, this issue was not raised by the petitioner. Thus, the findings of the learned Tribunal had attained finality. Moreover, in FAO No.1934 of 2012, titled as Smt. Radha and another Vs. Radhey Sham and others, which was contested by the petitioner the amount of compensation has been enhanced. Thus, once the findings of the learned Tribunal that respondents no.1 and 2 are the legal heirs of deceased-Ishwar Singh have attained finality, the learned Executing Court was not competent to go beyond the award to redetermine this issue.

6. There is no question of fraud being played by respondents no.1 and 2 with the Tribunal in procuring the award dated 07.09.2011, as the present petitioner has very much raised the plea that respondents no.1 and 2 are not the legal heirs of deceased-Ishwar Singh and that question has been decided by the learned Tribunal against the petitioner. The order dated 22.08.2013 passed by the learned Civil Judge (Jr. Division), Rohtak is only an interim order passed on the

application for ad interim injunction. The merits of the suit are still to be decided.

7. Thus, keeping in view my aforesaid discussion, I do not find any illegality in the impugned order dated 17.10.2014 passed by the learned Executing Court dismissing the objections filed by the petitioner.

8. Resultantly, the present revision petition having, no merits, is hereby dismissed.

11.03.2016

S.khan

**(DARSHAN SINGH)
JUDGE**