

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 328 of 2018**

Singaro Bai wife of Kawal Sai, aged about 54 years, R/o. Village Masira, P.S. Surajpur, Tahsil Bhaiyathan, District Surajpur (C.G.)

----Petitioner/deGREE holder/claimant

Versus

1. Manoj Dewangan, son of Kawal Sai, aged about 21 years, Occupation Driver.
2. Prakash, son of Kawal Sai, aged about 35 years, Occupation Vehicle Owner.

Both are by caste Panika, R/o. Sunderpur, Police Chowki Basdai, P.S. Surajpur, Tahsil Bhaiyathan, District Surajpur (C.G.)

---- Respondents/Judgment debtors

For Petitioner	: Shri Praveen Dhurandhar, Advocate.
For Respondents	: None.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

06/12/2018

(1) The petitioner is a claimant / decree holder, in whose favour the Claims Tribunal granted an amount of compensation of Rs.2,03,000/- along with interest for the death of her husband, fastened the liability of payment of compensation upon the owner and driver of the offending vehicle exonerating Insurance Company from its liability to pay compensation to the claimant.

(2) The petitioner/claimant preferred an application for execution for the said award before the learned Claims Tribunal on 21.11.2016. She paid process fee on 26.11.2016 and again on 28.04.2017 for serving the respondents/driver & owner of the offending vehicle. But the judgment debtors, who are owner and driver of the offending vehicle, could not be served as they are stated to deliberately avoiding service of notice issued to

them and they are also avoiding the payment of decretal amount to the claimant . When the matter came up for hearing before the Claims Tribunal on 07.02.2018, counsel for the decree holder failed to appear in the Court and, thus, the trial Court dismissed the application for execution holding that no process fee has been paid for serving the judgment debtors, against which instant writ petition has been filed questioning that order.

(3) I have heard learned counsel appearing for the parties and perused the order impugned with utmost circumspection.

(4) The decree holder is a claimant, who has lost her husband in the motor accident occurred on 08.12.2013 and she has been granted compensation of Rs. 2,03,000/- along with interest as mentioned hereinabove by the Claims Tribunal vide award dated 4.10.2016 in Claim Case No. 40/2014.

(5) The provision of the Motor Vehicles Act is a piece of beneficial legislation. It was incumbent on the part of the Tribunal to execute the award and to see that compensation is paid to the claimant. Therefore, the Claims Tribunal ought to have got it executed in accordance with the provisions contained in Order 21 of CPC.

(6) It is well settled that even in the claim case once the issues are framed, it cannot be dismissed in default. Thus, the Claims Tribunal could not have dismissed the execution of the amount under award, which is highly improper on the part of the Claims Tribunal. The Tribunal ought to have executed the award and ought to have ensured the payment of compensation to the claimant. In the considered opinion of this Court, the impugned order is liable to be and is hereby set aside. The execution case is restored to the file of Motor Accident Claims Tribunal and the said Court is directed to execute the award within a period of three months from the date of receipt of certified copy of this order and inform to

the Registry of this Court that the aforesaid order has been complied with.

(7) The writ petition is allowed to the extent indicated hereinabove.

(8) A copy of this order be sent to concerned court by E-mail / FAX.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

