

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

CR No.8135 of 2016

Date of decision: 4th May, 2018

Bhim Sharma

... Petitioner

Versus

Babu Lal & another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Sukhandeep Singh, Advocate
for the petitioner.

Respondents – ex parte.

FATEH DEEP SINGH, J.

This civil revision has been brought about by Bhim Sharma against Babu Lal and another respondent whereby the revisionist Bhim Sharma had secured an Award under the Motor Vehicles Act, 1988 (in short, 'the Act') for grant of compensation from the Motor Accident Claims Tribunal, Gurgaon vide Award dated 01.04.2013, by virtue of which the Tribunal had passed Award allowing compensation against the respondents jointly and severally to pay the compensation amount. For the fulfillment of this Award and its satisfaction, petitioner filed an execution application before the Court of learned Additional District Judge, Gurgaon and vide impugned orders dated 11.08.2015 (Annexure

P4) the executing Court had dismissed the said execution application observing as follows:

“... .. Since, recovery of the amount is required to be effected by attaching the property of JDs which is situated in Muradabad (UP), where JD No.2 UPSRTC, Lucknow, has its Regional office and JD No.1 Babu Lal is also employee of this Corporation, this execution can't be given effect of further, as JDs' property to be subjected to sale/attachment for recovery, is not located within the jurisdiction of Gurgaon Court. Hence, this present execution petition is dismissed with liberty to DH to approach the competent Court at Muradabad (UP), to claim for its remaining dues including TDS Certificate. However, the amount of Rs.25,000/- deposited with Hon'ble High Court, if received here, shall be payable to the Decree Holder, by this Court or Successor of this Court.

In view of the foregoing discussion, the present execution stands dismissed with liberty to Decree Holder to file fresh one before Competent Court of jurisdiction, for recovery of the amount due. File be consigned to record room after due compliance.”

Upon notice, none put in appearance for the respondents and they were proceeded against ex-parte.

After hearing Mr. Sukhandeep Singh, Advocate for the petitioner and perusal of the records. The sole ground which led to dismissal of the execution application, as is reflected from the impugned findings, is that the recovery of the amount is to be effected by attaching property of the JD who is resident of Muradabad (UP) where UP State Road Transport Corporation, Lucknow has its Regional Office and where JD No.1 Babu Lal is an employee and therefore, execution could not be given effect to as the property, subject matter of sale/attachment for recovery, is not located within the jurisdiction of Gurgaon Court. Least to say, the appellate Court remained in total oblivion to the provisions laid down in Section 40 CPC which provides that a Court can send and transfer a decree to a Court in another State for its execution and the executing Court, if faced with such a situation, could have done so or could have resorted to the provisions of Section 46 CPC by issuing precept by asking the decree holder, present revisionist, to move appropriate application for sending the Award to a competent Court to execute the same and thus attach the property belonging to the JDs, even to which the Court did not go in for and rather straightaway to lighten its burden has passed an order shrugging off from its shoulders its obligations to ensure due execution and satisfaction of the Award so passed by the Tribunal and thus, has

undermined due administration of justice to the revisionist. Without further going into the perverse approach of the Court below, this Court deems it essential to set aside the impugned order being illegal and perverse. The present revision petition stands allowed in those terms.

(FATEH DEEP SINGH)
JUDGE

May 4, 2018
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No