

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 71 of 2013 (O&M)

Date of Decision: 18.07.2022

Bhupinder Kumar

... Petitioner(s)

Versus

Sham Lal

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. K.S.Dhaliwal, Advocate
for the petitioner(s).

Mr. S.S.Momi, Advocate
for the respondent.

Anil Kshetarpal, J.

1. The judgment debtor questions the correctness of the order passed by the learned Executing Court while dismissing the objection petition. The respondent (decree holder) filed a suit for grant of damages by way of compensation for the injuries caused to him. The petitioner was tried by the Court for the offences charged. He was convicted by the learned Sessions Court on 10.07.1995. The civil suit for damages was filed by the respondent before the conviction of the petitioner.

2. In *Bhupinder Kumar v. State of Haryana (Criminal Appeal No. 429-SB of 1995, decided on 29.05.2007)*, while deciding the appeal against the judgment of conviction and order of sentence, the High Court has reduced the sentence to the period already undergone, subject to the appellant paying compensation of ₹1,75,000/- on or before 31.07.2007. The

decree holder was represented by the counsel. The Court also took note of

the fact that pursuant to the Civil Court decree, a sum of ₹25,500/- has already been deposited before the trial Court. This Court directed the appellant to deposit the remaining amount on or before 31.07.2007.

3. The question which arises for consideration is “whether the amount already paid to the respondent, pursuant to the order passed by this Court on 29.05.2007, is liable to be adjusted in the execution petition or not?” It is evident from the reading of the penultimate para of the judgment dated 29.05.2007 that the Court was conscious of the fact that there is a decree against the petitioner for grant of damages. It was never held that the compensation, as assessed by the trial Court, shall be in addition to the amount assessed by the Civil Court.

4. Keeping in view the aforesaid facts, this revision petition is disposed of by directing the learned Executing Court to adjust the payment, which has already been paid before proceeding with the execution petition. It is clarified that the amount of fine was ₹25,000/-, which has been ordered to be paid to the decree holder and shall not be adjustable because sub-Section 5 of Section 357 of the Code of Criminal Procedure, 1973, provides for adjustment of compensation and not the amount of fine.

(Anil Kshetarpal)
Judge

July 18, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No