In the High Court of Punjab and Haryana at Chandigarh

CRM-M No. 10801 of 2022
Date of Decision: 25.4.2022

Ravinder ......Petitioner

Versus

State of Haryana ......Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Harish Kumar Bhatti, Advocate
for the petitioner.

Mr. Pardeep Prakash Chahar, DAG, Haryana.

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SURESHWAR THAKUR, J. (ORAL)

1. The driver of vehicle bearing No. HR32-F-2799 is alleged to negligently drive it, and, cause injuries on the person of the injured concerned. In respect of negligent driving, of the above vehicle, by its driver, FIR No. 99 of 17.2.2021, under Section 279, 337 of the IPC, became registered, at Police Station Assandh, District Karnal. The above offending vehicle became impounded by the police concerned. Consequently, the registered owner of the offending vehicle, one Ravinder filed, an application under Section 451 of the Cr.P.C., before the learned Magistrate concerned, seeking its release in his favour. The above application was allowed by the learned Magistrate concerned, but subject to his furnishing sapurdari bonds, in a sum of Rs. 5.00 lacs with one surety in the like amount, and, with a further condition, that the registered owner deposits, a sum of Rs. 3.00 lacs in the establishment of the learned Magistrate concerned. The above order was made on 13.7.2021, by the learned ACJ, Assandh.

2. The petitioner became aggrieved from the afore order, and, preferred a review petition before the learned ACJ(SD), Assandh, which became dismissed on 30.7.2021.

3. The registered owner of the offending vehicle became aggrieved from the afore orders, and, preferred a criminal revision petition before the learned Additional Sessions Judge, Karnal, and, the latter, through an order made thereons, on 27.10.2021, also declined the espoused relief to the petitioner herein.

4. Therefore, the petitioner is pained, and, is led to institute thereagainst the instant petition, cast under Section 482 Cr.P.C.

5. The reason for both the learned Courts below, making the afore conditional order, upon the registered owner, became anchored upon both placing reliance, upon a verdict of the Hon'ble Apex Court, rendered in case titled ***M.R. Krishna Murthi versus The New India Assurance Co. Ltd. And others,*** bearing Civil Appeal Nos. 2476-2477 of 2019, and, which became decided on 5.3.2019.

6. However, before proceeding to refer to the judgment (supra), and, also before making it applicable to the facts at hand, it is important that a Motor Accident Claim petition, also became instituted before the MACT concerned, by the aggrieved concerned, as only upon the filing of the MAC petition before the learned MACT concerned, rather the mandate carried thereins would hold the completest force.

7. In the above regard, the learned State counsel, on instructions given to him by the concerned, submits that the aggrieved has instituted an Motor Accident Claim petition, before the learned MACT concerned. Therefore, this Court deems it important to refer to the judgment (supra).

The relevant paragraph of judgment (supra), is carried in paragraph 33 thereof, para whereof stands extracted hereinafter, thereins a mandate has been made upon all the States within the Union of India, to implement the Modified Claims Tribunal Agreed Procedure, as, formulated by the Delhi High Court, on 12.12.2014.

> *"Vide order dated 6th November, 2017 in Jaiprakash case, this Court modified its order dated 13th May, 2016 and directed all States to implement the Modified Claims Tribunal Agreed Procedure formulated by Delhi High Court on 12th December, 2014. The copy of the Modified Claims Tribunal Agreed Procedure was directed to be circulated to the Registrar General of each High Court for necessary compliance. The relevant part of the said order is reproduced hereunder:*
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> > *"It is also pointed out by learned amicus curiae that the order passed by Justice Midha referred to in our order of 13th May, 2016 was actually modified by Justice Midha on 12th December, 2014. The order dated 13th May, 2016 will, therefore, stand modified to the extent that Justice Midha has himself modified his earlier order on 12th December, 2014. The Registry will send a copy of this order as well as the order passed by Justice Midha on 12th December, 2014 to the Registrar General of each High Court for necessary information and compliance."*

7. The learned State counsel, on instructions given to him by the concerned, submits, that even the State of Haryana, within whose territory, the accident occurred, and, involved the offending vehicle (supra), has proceeded to implement the Modified Claims Tribunal Agreed Procedure, as approved by the Delhi High Court. He refers to clause 19, carried in chapter 8 thereof, clause whereof stands extracted hereinafter.

> *"Prohibition against release of motor vehicle involved in accident -(1) No court shall release a motor vehicle involved in*

an accident resulting in death or bodily injury or damage to property, when such vehicle is not covered by the policy of insurance against third party risks taken in the name of registered owner or when the register owner fails to furnish copy of such insurance policy, at the time of seizure, despite demand by investigating police officer, unless and until the registered owner furnishes sufficient security to the satisfaction of the court to pay compensation that may be awarded in a claim case arising out of such accident. Where the owner does not furnish such a copy of the Insurance Policy at the time of seizure, but agrees to furnish it or so furnishes it at a reasonable time thereafter, the release of the vehicle shall be subject to and only after due verification of the said Insurance Policy/cover note by the Insurance Company (2) Where the motor vehicle is not covered by a policy of insurance against third party risks, or when registered owner of the motor vehicle fails to furnish copy of such policy in circumstance mentioned in sub-rule (1), the motor vehicle shall be sold off in public auction by the magistrate having jurisdiction over the area where accident occurred, on expiry of three months of the vehicle being taken in possession by the investigating police officer, and proceeds thereof shall be deposited with the Claims Tribunal having jurisdiction over the area in question, within fifteen days for purpose of satisfying the compensation that may have been awarded, or may be awarded in a claim case arising out of such accident."

8. A reading of the hereinabove extracted relevant mandate, as carried thereins, reveals, that if at the relevant time of the accident taking place, and, involving the offending vehicle, and, with the latter being uninsured, as may arise, from the registered owner failing to furnish the copy of the insurance policy concerned, either before the investigating officer concerned, or before the learned Magistrate concerned, at the time of his claiming his release therefrom, thereupon, the seized vehicle is amenable

to be sold in a public auction, unless obviously, and, of course the claimant, to whom the vehicle is ordered to be released on sapurdari, makes as directed, the execution of sapurdari bonds also furnishes them, and/or also deposits in the establishment of the Magistrate concerned, the monetary value of the vehicle.

9. The learned counsel for the petitioner very fairly submits, that neither to the investigating officer concerned, and, nor rather along with the application concerned, as became preferred before the learned Magistrate concerned, became appended the insurance policy executed by him with the insurance company concerned. He further submits, that rather subsequently on 5.2.2022, an insurance policy became executed inter se the registered owner, and, the insurance company concerned. The afore factum is supported by Annexure P-4, appended with the petition, whereins, the insured value of the impounded vehicle, is revealed to be Rs. 1.50 lacs.

10. Be that as it may, the learned counsel for the petitioner argues before this Court, that the mandate as concurrently made upon him, by the learned Courts below, to deposit Rs. 3.00 lacs, before the establishment of the learned Magistrate concerned, is completely outside the ambit of the insured value of the vehicle concerned, as even in the event of a MACT petition succeeding, and, the apposite indemnificatory liability becoming encumbered upon the contracting party concerned , thereupon, some portion of the determined compensation amount would become partly satisfied or indemnified, through the deposited sum of money as may be ordered to be made by the Magistrate concerned, being released to the claimant concerned, nonetheless monetary values of the aposite deposit, yet cannot but exceed the insured value thereof(s).

11. The above argument is well merited, and, though the orders challenged before this Court, and, as passed by both the Courts below though do not merit interference, as they are completely in tandem, with the above extracted mandate, as brought into force, even by the State of Haryana, in pursuance to the judgment (supra), as made by the Hon'ble Apex Court, but the value of the insured vehicle, if is to act, as security for the relevant purposes, even then its actual value at the time of the insurance cover becoming executed, rather is its actual covering value, and, not its value at the time of its purchase, as, even upon its may be being put to auction, it may not fetch a price higher than the insured value thereof. In sequel, if the insurance value thereof, is comprised in a sum of Rs. 1.50 lacs, therefore, the above can alone became strived to be enforced at the instance of the insurer concerned, for hence thereafter its partly satisfying the liabilities towards compensation amount, as, may encumbered upon it, through an award, being pronounced, on the apposite MACT petition concerned. In sequel, only the insured value thereof, becomes the realistic value of the vehicle concerned, and, not its value at the time of its registration. Moreover, apart therefrom, the release of the offending vehicle to the registered owner, on sapurdari, with conditions (supra), appears to be also harsh, and, oppressive, and, may require reasonable modification by the learned trial Court.

12. However, as afore stated, Annexure P-4 never became supplied to the investigating officer concerned, by the registered owner, nor became appended with the apposite application, and, rather it becomes appended only with the instant petition. Therefore, the learned Courts below, could not make any pronouncement with respect to its validity, and/or with respect

to its leading them to make a mandate upon the registered owner to deposit a sum of money lesser that of Rs. 3.00 lacs, along with his furnishing sapurdari bonds, comprised in a sum of Rs. 5.00 lacs. In the face of the above, this Court also cannot determine the validity of the afore made argument, rather it is to be determined only by the learned trial Magistrate concerned, where before it is produced, and, becomes proved in accordance with law.

13. Consequently, and, in the larger interest of justice, the instant petition is allowed, and, the impugned orders are quashed, and, set aside. The learned Magistrate is directed to permit the registered owner to tender, before him or her, Annexure P-4, and, thereafter after hearing all the concerned, the learned Magistrate concerned, shall proceed to draw fresh orders, in accordance with law, upon the registered owner's apposite application.

(SURESHWAR THAKUR)
JUDGE

April 25, 2022
Gurpreet

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