

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

CR-6209-2022 (O&M)

Date of decision: 23.12.2022

Dushyant Kumar

...Petitioner

Versus

Vimala and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. D.S. Rawat, Advocate for the petitioner.

H.S. MADAAN, J. (Oral)

Briefly stated facts of the case are that on account of death of Musafir son of Nihor Rajbhar in a motor vehicular accident which had taken place on 16.07.2017 at about 10.00 pm, near Toll Plaza, Panipat statedly on account of rash and negligent driving of car bearing No.HR-06-AH-6812 by respondent No.1 Dushyant Kumar, LRs of deceased namely his wife Smt. Vimala, three children as well as parents had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against Dushyant Kumar-owner cum driver and Iffco Tokio General Insurance Company Ltd., New Delhi-insurer of the offending car.

After contest, Motor Accidents Claims Tribunal, Panipat, vide award dated 19.08.2021 accepted the claim petition and granted

compensation of Rs.13,77,250/- with interest and costs to the claimants, payable by respondent No.1. Since it was found that the offending vehicle was not insured with respondent No.2-insurance company, it was absolved of any liability to pay compensation. The claimants initiated proceedings to execute the award before the Tribunal.

On getting notice, respondent No.1 had put in appearance through counsel. A plea was put-forward on behalf of respondent-JD that appeal filed by him is pending before this Court, therefore, the execution petition was premature and award be not executed. However, that plea was rejected by the Tribunal observing that filing of an appeal is not to operate as a stay of proceedings under a decree or order appeal from and that the judgment debtor had not been able to produce any order from this Court regarding stay of execution proceedings. It was further observed that award was passed on 19.08.2021 and had not been executed so far and till date, not even a single penny has been paid by the respondent-JD to the claimants. Therefore, the objections filed were dismissed with costs of Rs.1000/- to be deposited with District Legal Services Authority, Panipat. The judgment debtor was further directed to furnish an affidavit disclosing his properties sufficient to discharge the amount of award and warrants of attachment of properties of JD were also ordered to be issued. In addition to that, JD was directed to show

cause as to why he could not be sent to civil imprisonment for non-compliance of award dt. 19.08.2021, the next date of hearing has been fixed as 07.01.2023.

Feeling aggrieved by such impugned order dt. 25.11.2022, respondent-JD has approached this Court by way of filing the present revision petition.

I have heard learned counsel for the revision petitioner besides going through the record and I find that the revision petition is without merit.

Award dt. 19.08.2021 having been passed against the revision petitioner/respondent No.1, he is bound to comply with the same, unless it is set aside or its operation is stayed by the superior Court. Although, according to the revision petitioner, he has preferred an appeal against the award which is pending before this Court but even as per his own case, no order has been passed by this Court staying the operation of the award or execution proceedings. As has been rightly observed by the executing tribunal, mere filing of an appeal does not mean that execution proceedings would come to a halt automatically. As regards the other submission made by counsel for the revision petitioner that his life and liberty is in danger since executing court/ tribunal is sentencing him to civil imprisonment as is evident from perusal of the impugned order, again I do not myself in agreement with learned counsel for the

revision petitioner in that regard. The revision petitioner/JD having failed to comply with the award passed way back on 19.08.2021 and having not made any payment to the claimant so far, the executing court/tribunal is to take all the measures available under law to effect the recovery by way of attachment and sale of properties of the revision petitioner/JD or by way of sending him to civil imprisonment. No fault can be found with such course of action being taken by the executing court/tribunal.

The impugned order does not appear to be suffering from any illegality or infirmity much less the same being perverse or arbitrary. I do not see any reason to interfere with the impugned order by exercising revisional jurisdiction. The revision petition is found to be without merit and is dismissed accordingly.

23.12.2022

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No