

Neutral citation : **2023:PHHC:059872**

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 2482 of 2023 (O&M)

Date of decision : 26.4.2023

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Harpreet Kaur

.....Petitioner

vs.

Shri Guru Harkrishan Charitable Trust and others

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. K.S. Hissowal, Advocate for the petitioner.

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H. S. Madaan, J.

Under challenge in this revision petition is order dated 11.10.2022, passed by Additional District Judge, Chandigarh, vide which an application filed by the claimant decree holder for directing the respondent – judgment debtor to pay Rs. 2 lacs, had been dismissed.

Briefly stated, facts of the case are that petitioner -claimant Harpreet Kaur had filed a claim petition under Section 166 of the Motor Vehicles Act, 1988, against respondents i.e. Shree Guru Harkrishan Charitable Trust through its President, Head Office Shri Guru Harkrishan Public High School Halwara, Tehsil Raikot, District Ludhiana – owner of the school bus/van No. PB-10BA-6945

(hereinafter referred to as the 'offending bus'), as well as Principal / Headmaster of Shri Guru Harkrishan Public High School, Halwara – (owner of the offending bus) and Kulwinder Singh - driver of that bus, claiming compensation on account of suffering injuries in a motor vehicular accident, which took place on 7.11.2015, at about 4.30 P.M., in the area of village Rattowal, Tehsil Raikot, District Ludhiana, statedly on account of rash and negligent driving of the offending bus belonging to respondents No. 1 and 2, by respondent No. -3 Kulwinder Singh.

That claim petition was accepted by Motor Accidents Claims Tribunal, Chandigarh, vide award dated 25.10.2018 and a compensation of Rs.16,38,245/- with interest @ 7.5% per annum from the date of filing of the claim petition till actual realization, besides costs of the petition, was awarded to the claimant, payable by all the three respondents, jointly and severally.

For recovery of the awarded amount, the petitioner -claimant had filed an execution before the Tribunal, where during the course of proceedings on 25.2.2021, the judgment debtors had made a payment of Rs. 2 lacs and their counsel had made a statement that they would make the entire payment within 2 months, failing which, the payment of Rs. 2 lacs made by them vide demand draft No. 027624 drawn on Axis Bank, would be forfeited and would not be adjusted towards the remaining compensation amount. But, the judgment debtors did not make the payment of entire remaining amount and rather on 19.4.2021 had made part payment of Rs. 10 lacs. The remaining payment of the amount was cleared on 12.4.2022, which was to the

tune of Rs.10,47,530/- towards due amount of compensation. However, the claimant filed an application that the amount of Rs. 2 lacs paid by the judgment debtors be not adjusted towards the due amount in view of the statement made by their counsel on 25.2.2021 mentioned above.

Notice of that application was given to the respondent-judgment debtors, who put in appearance through counsel. Vide impugned order dated 11.10.2022, the application was dismissed, leaving the claimant – petitioner aggrieved and she has filed the present revision petition.

I have heard learned counsel for the petitioner, besides going through the record and I find that there is absolutely no merit in the revision petition.

Although, while paying the amount of Rs. 2 lacs in the form of demand draft on 25.2.2021, counsel representing the judgment debtors had made a statement that the remaining amount would be paid within two months, failing which Rs. 2 lacs paid, would be forfeited. However, it is to be taken note of that within a period of two months of 25.2.2021 i.e. on 19.4.2021 substantial payment of Rs. 10 lacs have been made and thereafter a sum of Rs.10,47,530/- was paid on 12.4.2022. It needs to be mentioned here that the entire compensation amount awarded alongwith interest and costs has been got paid to the petitioner claimant.

Under the circumstances, her insistence that a sum of Rs. 2 lacs, initially paid by the judgment debtors be not taken towards the amount due, is not justified. As against the compensation amount of

Rs.16,38,245/- with interest and costs a sum of Rs.22,47,530/- has been got paid to the petitioner claimant, which includes interest and costs, therefore, she cannot recover further sum of Rs. 2 lacs from judgment debtors over and above the amount already paid by them for the satisfaction of the award. The Motor Accidents Claims Tribunal was justified in dismissing the application filed by the petitioner -claimant and disposing of the execution application being fully satisfied. No fault can be found with the said order passed by the Motor Accidents Claims Tribunal.

There is no merit in the revision petition. The same stands dismissed accordingly.

26.4.2023
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No