

CR-2173-2024 (O&M)

- 1 -

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

123

CR-2173-2024 (O&M)
Date of decision: 10.04.2024

Gyanwati

...Petitioner.

Versus

Joginder Singh and another

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Devender Kumar, Advocate
for the petitioner.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 20.02.2024 (Annexure P-5), passed by Motor Accident Claims Tribunal, Palwal (for short, 'the Tribunal'), vide which the application dated 06.10.2023 moved by respondent No.2 for tendering of the award amount as Rs.5,02,507/- subject to furnishing security by judgment debtor No.1/ respondent No.1 and the adequate security from respondent No.1 before release the award amount was allowed.

2. The brief facts for adjudication of the present revision petition are that the petitioner file a claim petition under Section 163-A of the Motor Vehicle Act on account of death of her husband, which was partly accepted vide award dated 17.08.2023 passed by the Tribunal. Total compensation of Rs.5,00,000/- was awarded to the petitioner and while holding that

CR-2173-2024 (O&M)

- 2-

respondent No.1-owner and driver have violated the terms and condition of the insurance policy, decided issue No.3 was in favour of insurance company and it was absolved from the liability. It was also observed in the award that respondent insurance company will firstly pay the compensation amount to the petitioner and then to recover the said amount from respondent No.1-owner of the offending vehicle, in accordance with law.

3. Respondent No.2-Insurance Company filed execution application No.298 of 2023 before the Executing Court. During pendency of the said execution application respondent No.2 filed an application dated 06.10.2023 before the Executing Court, Palwal for tendering of the award amount i.e. Rs.5,02,507/- vide cheque No.129568 dated 10.09.2023 on behalf of respondent No.2, subject to furnishing security by judgment debtor/ respondent No.1-Joginder Singh owner of the offending motorcycle No.HR-50G-9009, before releasing the said amount to the petitioner. In the meantime, the petitioner also moved an application for releasing the cheque amount already deposited by respondent No.2 before Executing Court. Respondent No.2 filed reply to the said application. Thereafter, arguments were heard by the Executing Court/ the Tribunal, Palwal and vide common order dated 20.02.2024 both the aforesaid applications were decided and it was held that before releasing of the amount deposited by the Insurance Company i.e. respondent No.2, the adequate security must be furnished for the entire amount which the insurer will pay to the petitioner-claimant. The directions for issuance of fresh cheque in favour of the petitioner was also given on furnishing of the adequate security for the entire amount.

CR-2173-2024 (O&M)

- 3-

4. Being aggrieved against the order dated 20.02.2024, the petitioner has been filed the present revision petition.

5. Learned counsel for the revision petitioner has contended that the Executing Court, Palwal, while passing the impugned order has wrongly held that the adequate security is to be furnished since the person claiming the compensation amount and the person ultimately held responsible to pay the said amount are from the same family and are residing in the same house. He has argued that the petitioner/ claimant and respondent No.1 have their own individual rights and responsibilities. He has submitted that this fact has also not been considered by the Executing Court while passing the impugned order that the Tribunal, while allowing the compensation in her favour has given the right of recovery of amount of compensation from respondent No.1-owner of the vehicle and the petitioner is entitled for the amount as awarded by the Tribunal. Awarded amount has already been deposited by the Insurance Company which is lying deposited with the Court since 2023 and only because of non-furnishing of the security by respondent No.1, the said amount has not been released so far to the petitioner, who is an old age lady about 73 years and is in dire need of money for her survival in her old age. He has urged that the Tribunal, while passing the award in favour of the petitioner/ claimant did not impose any such condition for the release of amount, but the Executing Court vide the impugned order dated 20.02.2024, in an arbitrary manner has allowed the application of respondent No.2-Insurance Company, regarding furnishing security by respondent No.1.

6. Petitioner Gyanwati is the mother of respondents No.1 and 2. Respondent No.1 was the driver and respondent No.2 was the owner of the offending vehicle on which deceased Partap Singh was a pillion rider and had died in the accident in question. The perusal of the award dated 17.08.2023 passed by the Tribunal reveals that the findings on issue No.3, regarding violating the terms and condition of the insurance policy, was decided in favour of the Insurance Company and it was held that as respondents No.1 and 2 had violated the terms and condition of the insurance policy, so, the Insurance Company was granted the right to recover the amount of compensation from the owner of the vehicle i.e. respondent No.2. The notice, which was issued to Joginder Singh in the execution application was received back with the report that his mother Gyanwati had informed that Joginder Singh was not in the house and she herself refused to receive the summons. The summons, which were sent by way of registered post were shown to have been delivered to the addressee.

7. In the peculiar facts of the case, the Executing Court has rightly observed that since the persons claiming compensation amount and the person ultimately had liable to pay the said amount, are from the same family and are residing in the same house, so the adequate security is required to be furnished, as the Insurance Company is making the payment in the interregnum. It has been rightly held that before releasing the amount deposited by the Insurance Company, the adequate security must be furnished for the entire amount which the insurer, would pay to the claimant, so that the execution petition filed by the Insurance Company

CR-2173-2024 (O&M)

- 5-

could be satisfied.

8. Thus, there being no illegality or infirmity in the impugned order, no interference therewith is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands dismissed.

9. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

10.04.2024.
komal

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