



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.198/2024

Smt. Rupinder Kaur W/o Sukhjinder
Singh Ghotra, aged about 48 Yrs.,
Occu. Business, R/o Plot No.184,
Near Gurudwara, Baba Budhaji Nagar,
Teka Naka, Nagpur, Tq. and Distt.
Nagpur.

... Petitioner
(Ori. J.D. on R.A.)

- Versus -

The Oriental Insurance Company Ltd.,
through its Divisional Manager,
T.P. Hub Incharge "Shukla Bhawan",
W.H.C. Road, Dharampeth, Nagpur,
Tq. and Distt. Nagpur.

... Respondent
(Ori.D.H. on R.A.)

WITH

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Mr. S.A. Mohta, Advocate for the petitioner.
Mr. Lalit Limaye, Advocate for the respondent.
..(in both matters)

CORAM: MRS.VRUSHALI V. JOSHI, J.
DATE OF RESERVING THE JUDGMENT: 10.6.2025.
DATE OF PRONOUNCING THE JUDGMENT: 20.6.2025.

COMMON JUDGMENT

As both these petitions are arising out of same accident and Motor Accident Claims Tribunal-1, Nagpur has passed a common award in both the petitions, they are decided by the common judgment.

2. **Rule.** Rule made returnable forthwith. Heard finally by consent of learned Advocates for the parties.

3. The petitioner in both the petitions is the owner of the vehicles. The award is passed against the owner of the vehicles *ex parte*.

4. The petitioner in Writ Petition No.198/2024 has challenged the orders passed below Exh.35 dated 13.9.2023 and below Exh.42 dated 18.9.2023 by the Member, Motor Accidents Claims Tribunal-1, Nagpur in R.D. No.211/2025. The petitioner in Writ Petition No.199/2024 has challenged the order below Exh.33 dated 18.9.2023 passed by the Member, Motor Accidents Claims Tribunal-1, Nagpur in R.D. No.212/2025. The petitioner in both the petitions is the owner of the offending vehicle bearing registration Nos.CG-04/G-7817 and CG-04/G-7817 respectively.

5. Learned Member, Motor Accidents Claims Tribunal-1, Nagpur partly allowed the claim petitions and held that the petitioners and the respondents are jointly and severally liable to pay the amount of Rs.1,70,000/- in Claim Petition No.1115/2005 and Rs.7,68,400/- in Claim Petition No.1114/2005 to the claimants who are the son and daughter of the deceased. The Tribunal has also directed the respondent to deposit the compensation amount and after depositing the

amount, the respondent is entitled to recover the same from the petitioners with interest at the rate of 7.5.% per annum from the date of filing of the claim petitions till its realization.

6. The respondent i.e. Insurance Company has challenged the award passed by the Tribunal in Claim Petition Nos.1115/2005 and 1114/2005 in First Appeal Nos.517/2011 and 636/2011. Both the appeals were dismissed by this Court and said orders were challenged in Special Leave to Appeal (C) Nos.20485-20486/2013 before the Hon'ble Apex Court. The said Special Leave to Appeal were also dismissed with liberty to the respondent Insurance Company to proceed against the owners of the vehicles for the recovery of the amount.

7. The respondent Insurance Company has filed the execution proceedings bearing Regular Darkhast Nos.211/2015 and 212/2015 which are pending on the file of Motor Accident Claims Tribunal-I, Nagpur. The petitioner in both the petitions

also filed the appeals challenging the award and order of Accidents Claims Tribunal along with applications for condonation of delay which were rejected up to Hon'ble Apex Court.

8. The petitioner has filed an objection under Section 47 of the Code of Civil Procedure at Exh.35 and 33 in execution proceedings along with an application for grant of permission to issue witness summons to the Road Transport Officer, Nagpur at Exh.36. The Tribunal has rejected the objections as the application is not maintainable under Section 47 of the Code of Civil Procedure but the Tribunal has allowed the application at Exh.42 filed by the respondent for recalling of order of issue of summons. Hence the petitioners have challenged the orders passed in both the claim petitions.

9. The learned Advocate for the petitioner has stated that the objections under Section 47 of the Code of Civil

Procedure is maintainable as the Code of Civil Procedure is an independent Code and it provides an opportunity to the judgment debtor to raise grievance or objection in the execution proceedings itself.

10. The petitioner in both the petitions is proceeded *ex parte* before the Tribunal and was unsuccessful in this Court and the Hon'ble Apex Court also in challenging the orders of the Tribunal. The applications for condonation of delay itself were not allowed in both the Courts. The decree holder i.e. the Oriental Insurance Company who is the respondent in these petitions has also challenged the award before this Court which was dismissed and before the Hon'ble Apex Court the Special Leave Petitions filed by the respondents were also dismissed. Thereafter, the judgment debtors have filed the execution proceedings and it appears from the record that the petitioners tried to challenge the award passed by the Tribunal by way of applications under Section 47 of the Code of Civil Procedure by

raising objections. It is, therefore, necessary to decide whether the objections before the execution Court raised by the petitioners are maintainable?

11. On perusal of the orders passed by the trial Court it appears that the trial Court has considered all the provisions of Section 169 and Rules 275 and 276 of the Motor Vehicles Act and has rightly observed that Section 47 of Code of Civil Procedure will not be attracted under the Motor Vehicles Act while entertaining execution proceedings by Claims Tribunal. As Section 47 of the Code of Civil Procedure is an independent remedy and it does not find place either in Section 169 of the Motor Vehicles Act or the Rules framed thereunder, therefore, the objections/applications raised by the petitioners cannot be entertained and were rightly rejected.

12. Moreover, by way of objections the petitioners have challenged the award which issue is already decided by the

Hon'ble Apex Court. The award has attained finality and, therefore, there is no question of raising any objection that the respondent has filed forged documents of the licence and reopen the claim. As I agree with the observations made by the trial Court, interference at the hands of this Court is not warranted. Hence, writ petitions stand dismissed with no orders as to costs. Rule discharged.

(MRS.VRUSHALI V. JOSHI, J.)