

2026:PHHC:067047



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

135

CR-3631-2026

Date of decision :30.04.2026

SUNIL KUMAR

... PETITIONER

VERSUS

DAVINDER KAUR

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Deepak Aggarwal, Advocate
for the petitioner.

PARMOD GOYAL, J. (ORAL)

1. The present revision petition has been filed by the petitioner–Judgment Debtor under Article 227 of the Constitution of India for setting impugned order dated 15.04.2026 (Annexure P-12) passed by the Motor Accident Claims Tribunal, Ambala (Executing Court), whereby objections filed by the petitioner-Judgment Debtor to the application under Order 21 Rule 37 and 40 CPC, 1908 by the respondent-decree holder for arrest and detention of petitioner-Judgment Debtor for execution of award dated 14.02.2025, was dismissed.

2. Vide the said order, the learned Tribunal has directed the petitioner–Judgment Debtor to make the entire payment within a period of 15 days, failing which he shall be liable to be sent to civil imprisonment.

3. Learned counsel for the petitioner–Judgment Debtor has challenged the impugned order on the ground that the petitioner is a person of limited means

and lacks the financial capacity to satisfy the decretal amount. It is contended

that mere inability to pay, on account of poverty, cannot by itself be a ground for ordering civil imprisonment.

4. Learned counsel for the petitioner–Judgment Debtor has placed reliance upon the judgment of the Hon’ble Supreme Court in **Jolly George Varghese and another Vs. The Bank of Cochin**, 1980(2) SCC 360.

5. The principle laid down in cited judgment that a person cannot be sent to civil imprisonment merely on account of inability to pay the decretal amount is well settled and requires no reiteration. The power of the Executing Court to order civil imprisonment is governed by Section 51 of the Code of Civil Procedure, 1908 read with Order XXI Rule 37 of the Code of Civil Procedure, 1908, which regulate the circumstances in which such power is to be exercised.

6. It is a settled proposition of law that no person can be detained in civil imprisonment for non-payment of decretal amount unless he has been duly put to notice. In the present case, admittedly, notice under Order XXI Rule 37 CPC, 1908 was served upon the petitioner–Judgment Debtor. However, upon his failure to appear, conditional warrants were issued, pursuant to which he eventually appeared before the Court. The petitioner-Judgment Debtor also filed a reply dated 09.03.2026 to the show cause notice. Perusal of the said reply reveals that he raised only technical objections challenging the validity of the notice and did not take any plea that he lacked the means to satisfy the decretal amount.

7. It is further noteworthy that the accident in question occurred on 30.10.2021, and the claim petition was allowed by the Motor Accident Claims Tribunal, Ambala (hereinafter referred to as ‘Tribunal’) vide award dated 14.02.2025 whereby compensation of ₹13,72,120/- was awarded to

respondents-claimants on account of the death of Kanwaljit Singh in an accident caused by Sunil Kumar, owner-cum-driver of the motorcycle bearing registration No. 55-B-8663 (hereinafter referred to as 'offending vehicle'). The motorcycle was being plied without any insurance cover. The petitioner–Judgment Debtor was duly represented by counsel before the learned Tribunal and continues to be represented even in execution proceedings by private counsel.

8. The petitioner is the owner of the offending vehicle, which *prima facie* indicates that petitioner must be maintaining a reasonable standard of living. Significantly, no application has been filed by him at any stage since 2021 claiming his indigent status. Mere filing of an affidavit in the present revision petition is insufficient to establish that petitioner-Judgment Debtor has no means to pay the decretal amount. On the contrary, the conduct of the petitioner–Judgment Debtor, as duly noticed by the Executing Court in the impugned order dated 15.04.2026 (Annexure P-12) as well as the in order of the same date (Annexure P-13), reflects an attempt to delay the execution proceedings.

9. In the absence of any plea regarding lack of financial means in response to the notice under Order XXI Rule 37 CPC, the contention now raised before this Court appears to be an afterthought, aimed at avoiding payment of the compensation awarded by the Competent Court. It is well settled that a party asserting inability to pay must substantiate such a claim by placing cogent and positive material on record. Mere bald assertions cannot compel the Executing Court to undertake a roving inquiry into the financial status of the Judgment Debtor, particularly when such facts are within exclusive knowledge of judgment debtor.

10. Even Section 51 (b) of CPC provides that “the Court is required to record its satisfaction that the Judgment Debtor has, or has had since the date of the decree, the means to pay the amount of the decree or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same’. Such satisfaction is necessarily to be based on the evidence/material placed before the Court. In the present case, no evidence/material has been produced by the petitioner–Judgment Debtor to demonstrate his incapacity to pay the decretal amount. Rather, the circumstances noted above, including his ownership of the vehicle and representation through private counsel, support the conclusion drawn by the learned Executing Court that he is deliberately avoiding payment without just cause.

11. Accordingly, the satisfaction recorded by the learned Executing Court cannot be faulted with. The present revision petition is, therefore, dismissed.

12. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly.

30.04.2026
manoj

(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No