

(2006) 05 P&H CK 0002
In the Punjab And Haryana At Chandigarh

Babu Singh and Others

APPELLANT

Vs

Tarawati and Others

RESPONDENT

Date of Decision : 03-05-2006

Acts Referred:

Citation : (2007) 1 ACC 650

Hon'ble Judges : Jasbir Singh, J

Bench : Single Bench

Judgement

Jasbir Singh, J.—This revision petition has been filed against order dated 20.10.2001, vide which, application of the petitioners, to record a compromise and dispose of execution application, having been satisfied, was dismissed. It is apparent from the records that vide award dated 31.1.1983, on account of death of predecessor-in-interest of respondent Nos. 1 to 5, the Motor Accident Claims Tribunal, awarded them compensation amount of Rs. 1,40,000 along with interest @ 6% per annum from the date of award, Vide that order liability of the Insurance Company respondent No. 6 was fixed at Rs. 50,000 only. Rest of the amount was ordered to be paid by the driver and owner of the offending vehicle. It is not disputed before this Court that Insurance Company had deposited the said amount, which was paid to the claimants. Against the said award, petitioners/their predecessor-in-interest, went in appeal, which was accepted vide order dated 22.8.1986. It was ordered that the entire amount shall be paid by the Insurance Company. Respondent No. 6-Insurance Company in compliance to that order paid the entire remaining amount in the year 1987, to the claimants. Respondent No. 6 went in L.P.A., which was allowed vide order dated 21.7.1997 and the order dated 22.8.1986 was set aside and that of the Motor Accident Claims Tribunal was upheld. The liability of the Insurance Company remained confined to Rs. 50,000. Claimants went in SLP before Hon"ble the Supreme Court, which was disposed of vide order dated 14.5.1998, with a modification regarding rate of interest, which was enhanced to 12% per annum, from the date of moving application by the claimants. The claimants then filed application for execution of the award. In the pending execution, petitioners

moved an application, which was dismissed vide impugned order. Before the Executing Court, the Insurance Company raised an objection that as the excess amount had been paid, the company is entitled to recover the same from the petitioners/claimants. Keeping in view the said fact, the Court below has rightly dismissed the application. It is not in dispute that the Insurance Company had paid excess amount that too in the year 1987, as the same was done under orders of the Court, when its appeal was allowed, the company is entitled to recover the said amount from respondent Nos. 1 to 5 and the petitioners. Whether any compromise has been effected between the petitioners and respondent Nos. 1 to 5, is a matter of dispute, as the very existence of the said compromise has been controverted by Counsel for respondent Nos. 1 to 5. Under these circumstances, this Court feels that an attempt has been made by the petitioners and the claimants to defeat the rights of the Insurance Company, which disentitles them to get any relief.

2. In view of facts mentioned above, this revision petition is dismissed. The Executing Court is directed to proceed further with the pending execution and shall decide right of the Insurance Company/claimants and also of the petitioners. Insurance Company is entitled to recover the amount and the Executing Court shall determine as to whether the same is to be recovered from the petitioners/claimants.

Parties are directed to appear before the Executing Court on 29.5.2006.