

CR-9256-2018
CR-4848-2024

2025:PHHC:038094

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

Date of decision : 20.03.2025

- 1. CR-9256-2018**
- 2. CR-4848-2024**

M/S PIYAR BUS SERVICE PVT. LTD.

...Petitioner

Versus

SUKHWINDER KAUR AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

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

Mr. Sarbjit Singh, Advocate
for respondents No.1, 3 & 4.

PANKAJ JAIN, J. (ORAL)

Petitioner is aggrieved of order dated 01.11.2018 passed by Executing Court whereby his objections filed in the execution of award dated 09.09.2000 have been ordered to be dismissed.

2. Respondents/claimants filed petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of death of Prem Singh in a motor-vehicular accident claiming rash and negligent act of driving by driver of bus bearing Registration No.PAB-1111. Petitioner was impleaded as respondent No.2 being owner of the offending vehicle. As per the award, respondent No.1 did not appear despite service and was proceeded *ex parte*. Respondent No.2 i.e. the present petitioner also did not



appear and was proceeded *ex parte*. The proceedings finally culminated in award dated 09.09.2000. Claimants were awarded an amount of Rs.1,80,000/- along with interest @ 12% per annum from the date of petition till the date of actual realization. The claimants filed execution only in the year 2011. The same was dismissed as withdrawn on 19.07.2014. Thereafter, an application was moved seeking restoration thereof and the execution was restored on 01.07.2017. During execution, account of the petitioner/JD was ordered to be attached vide order dated 21.08.2018. Petitioner/JD filed objections in the execution petition claiming to have come to know of proceedings under the Motor Vehicles Act only on attachment of bank account. On merits, JD claimed that he is neither owner of the vehicle in question nor possesses the said vehicle. It was claimed that JD never had any concern with the said vehicle. In order to substantiate his claim, information received from Secretary Regional Transport Authority, Gurdaspur was appended. The same reads as under:

“Subject:- Regarding to provide information under RTI Act 2005

With regard to the aforesaid subject an information was asked by you regarding Bus bearing registration No. PAB-1111, which is as under:-

That the bus remained in ownership from the year of 1992 to 1996 in the name of Sh. Darbara Singh son of Mohinder Singh, village Gandekeh, Tehsil Batala, District Gurdaspur and remained registered at permit No. 291/R/92. On 19.09.1996 it had been registered in the name of Sant Baba Labh Singh Senior Secondary School, Malewal, District Amritsar.

Sd/-
Secretary
Regional Transport Authority, Gurdaspur”



3. The same *prima-facie* supports the claim of the petitioner on merits. Executing Court dismissed the objections filed by the JD holding that respondent No.2/objector opted not to contest the claim petition and was proceeded *ex parte*. No application was moved for setting aside of the *ex parte* award. Further, objector opted not to appear in the execution despite service and thus at this belated stage, the objections filed by JD are not maintainable.

4. Counsel for the petitioner has assailed the impugned order passed by the Executing Court submitting that the liability fastened upon the petitioner/JD is dependent on him being owner of the offending vehicle. Thus, the objection raised goes to the root of the case. He further submits that application under Order IX Rule 13 CPC was also filed on 26.11.2018, which also stands dismissed on account of delay vide order dated 08.05.2024 which is subject matter of CR No.4848 of 2024. He submits that at least the objector was entitled to prove his case before the Executing Court and thus, an opportunity ought to have been granted after framing proper issue to lead evidence.

5. Per contra, counsel for the respondents/claimants Mr. Sarbjit Singh, Advocate submits that the conduct of the petitioner/Judgment Debtor is evident. He opted not to appear before the MACT despite service. Even in execution proceedings, he appeared only after the bank account was attached. He thus submits that the objections raised by the objector being



not *bona fide* have been rightly rejected by the Executing Court.

6. Having heard counsel for the parties and after careful perusal of the record, this Court finds that the Executing Court ought to have framed the issue w.r.t. ownership of the offending vehicle and allowed the objector to prove that the award was in nullity *qua* him. The liability of the owner of the offending vehicle is vicarious in nature as the owner is not the tortfeasor but the driver is. He is liable for being owner and not offender.

7. With the consent of counsel for the parties, these revision petitions are disposed off in following terms:

- (i) CR No.4848 of 2024 is dismissed as not pressed.
- (ii) CR No.9256 of 2018 is allowed. The order passed by the Executing Court dated 01.11.2018 is hereby set aside with the direction to decide the objections filed by the petitioner afresh in accordance with law after framing issue w.r.t. the objection raised by the petitioner and allowing both the parties to adduce their evidence granting them 2 opportunities each.
- (iii) Necessary exercise be carried out within a period of three months from the date of receipt of certified copy of this order.
- (iv) The amount already deposited by the objector/petitioner, be invested in FDR with a Nationalized Bank and the disbursal thereof shall be subject to final outcome of the

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petition.

8. A copy of this order be kept on the files of other connected case.

March 20, 2025

(Pankaj Jain)

Dpr

Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No