



2025:HHC:40368

Managing Director HPMC Versus New India Assurance Company and others

CMPMO No. 727 of 2024

19.12.2024 Present: Mr. Rahul Gathania, Advocate, for the petitioner.

CMPMO No. 727 of 2024

Notices be issued to respondents No. 1 to 3, returnable within three weeks, on taking steps within two days.

CMP No. 24480 of 2024

Notice in the aforesaid terms.

Instant application has been filed under Section 151 C.P.C, praying for staying the Impugned orders dated 07.11.2024 [Annexure P-7] passed by the Learned Executing Court i.e. Motor Accident Claims Tribunal (III), Shimla, District Shimla (H.P), in Execution Petition No. 9000330 of 2017, titled as *New India Assurance Company versus Managing Director HPMC & Ors.*

2. Precisely the case, as set up, is that one Naresh Kumar, who was injured, filed a claim petition, under Section 166 of the Motor Vehicles Act, which was allowed by Learned Tribunal i.e. Motor Accident Claims Tribunal, Fast Track Court, Shimla, (H.P), vide judgment dated 01.11.2008 awarding a compensation of Rs.60,000/- as compensation against the



respondents No. 1 and 2 [H.P.M.C-owner and the Driver] jointly and severally. Feeling aggrieved against the Award dated 01.11.2008 [Annexure P-1], the petitioner-Managing Director, HPMC Nigam Vihar filed an FAO (MVA) No. 18 of 2009, which was allowed by this Court on 14.08.2015 [Annexure P-2] and in terms of Para No. 35 of order, the Insurance Company - New India Assurance Company [Respondent herein] was saddled with liability of Rs.6,55,592/- with interest @ 7.5% per annum from date of Award till realization of the compensation amount. The Insurance Company assailed the order in FAO before the Hon'ble Supreme Court, in SLC(c) No. 20760-20761/2016 which was decided on 11.11.2016 [Annexure P-3]. After dismissal of SLP, the Insurance Company filed execution in September 2017 [Annexure P-4], to which objections were filed in May 2022 [Annexure P-6] that the Insurance Company could not resort to recovery of the compensation amount in Execution proceedings from the HPMC without availing other remedy available in law.

3. In above background, Learned Counsel for petitioner (HPMC) has assailed the Impugned Order dated 07.11.2024 [Annexure P-7], on the ground, that



the orders passed by Learned Executing Court on 07.11.2024 [Annexure P-7] was beyond the purview of Executing Court, when, as per him the only remedy available with the Insurance Company for recovery was by way of Civil Suit against the HPMC-petitioner herein and not in Execution proceedings which has caused prejudice to the petitioner.

4. Taking into account the entirety of the facts and circumstances and the material on record and the submissions made by Learned Counsel for the petitioner and in order to safeguard the rights of parties at this stage, this Court is of the considered view, that the interim protection needs to be accorded to the petitioner, as the matter is fixed before the learned Executing Court on 21.12.2024 and continuance of further proceedings shall adversely affect the rights/interests of the petitioner herein.

5. Accordingly, this Court at this stage, directs that subject to the deposit of compensation amount of Rs.6,55,592/- [excluding interest] before the Registry of this Court within three weeks from today; further proceedings in pursuance to orders dated 07.11.2024 [Annexure P-7] shall remain stayed, till the next date of hearing.



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6. It is clarified that non-compliance of directions contained in Para 5 above shall entail vacation of the stay order passed today.

7. List this matter after three weeks.

19th December, 2024
TM

(Ranjan Sharma)
Judge