



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No.727/2024.

Date of Decision: 27th, November, 2025.

Managing Director, H.P.M.C.

.....Petitioner

Versus

New India Assurance Company and Others.

....Respondents

Coram

The Hon'ble Mr. Justice Bipin Chander Negi, Judge.

Whether approved for reporting?¹

For the Petitioner: Mr. Rahul Gathania, Advocate, for the petitioner.

For the Respondents: Mr. Raman Sethi, Advocate, for respondent No.1.
Mr. Vinod Chauhan, Advocate, for respondent No.2.
Mr. Ajay Kumar, Advocate, for respondent No.3.

Bipin Chander Negi, Judge (oral).

The present petition has been preferred against the impugned order dated 07.11.2024, whereby objections filed by the present petitioner/JD in the execution petition filed by the decree-holder/respondent No.1 has been dismissed.

2. Heard counsel for the parties and perused the impugned order and the documents appended along with the present petition.



3. The petition in the case at hand was instituted before the Motor Accident Claims Tribunal on 18.10.2006. It was finally decided on 01.11.2008 by the Motor Accident Claims Tribunal, Fast Track Court, Shimla. In the award so passed by the learned Tribunal, liability has been fastened on present respondent No.2 and the petitioner, i.e. driver and owner, respectively.

4. Feeling aggrieved by the judgment dated 01.11.2008 passed by the Motor Accident Claims Tribunal, Fast Track Court, Shimla, two appeals had been preferred bearing FAO No.18 of 2009 and FAO No.14 of 2009 by the owner and claimant, respectively. Both the appeals were allowed, the liability insofar as the owner is concerned, was shifted to the Insurance Company and the awarded amount was enhanced in favour of the claimants. Judgment in this respect was passed by Co-ordinate Bench of the High Court on 14.08.2015.

5. Feeling aggrieved of the same, the New India Insurance Company had preferred Special Leave Petition. The same was decided vide judgment dated 11.11.2016 passed by the Apex Court (Annexure P-3). The relevant extract whereof reads as follows:



"Delay condoned.

We do not find any merit in these petitions. The special leave petitions are, accordingly, dismissed.

Pending application, if any, stands disposed of.

However, liberty is granted to the petitioner to file appropriate application before the appropriate Court for recovery of the amount from the owner of the car, in accordance with law."

6. Immediately thereafter, an execution petition was preferred by the New India Insurance Company. During the pendency of the execution petition, the owner approached the Apex Court for clarification of the order previously passed by the Apex Court on 11.11.2016. The same was dismissed vide judgment dated 27.10.2017 (Annexure P-5). In the aforesaid backdrop, in the pending execution petitions, objections were filed by the present petitioner/JD in the year, 2022.

7. The sole contention urged on behalf of the petitioner/judgment-debtor is that the judgment passed by the Co-ordinate Bench of this High Court on 14.08.2015, has not been set aside by the Apex Court or merged in the order dated 11.11.2016. Hence, the New India Insurance Company i.e. respondent No.1 is not entitled to recover any amount in the present execution petition.



8. In the aforesaid factual matrix, it would be appropriate to refer to the authoritative pronouncement of the Apex Court in case reported as **(2000) 6, SCC 359** titled as ***Kunhayammed and Others Vs. State of Kerala and Another***. Relevant extract reads as follows:

"27.....The statement contained in the order other than on points of law would be binding on the parties and the court or tribunal, whose order was under challenge on the principle of judicial discipline, this Court being the apex court of the country. No court or tribunal or parties would have the liberty of taking or canvassing any view contrary to the one expressed by this Court."

44.....(V) If the order refusing leave to appeal is a speaking order, i.e. gives reasons for refusing the grant of leave, then the order has two implications. Firstly, the statement of law contained in the order is a declaration of law by the Supreme Court within the meaning of Article 141 of the Constitution. Secondly, other than the declaration of law, whatever is stated in the order are the findings recorded by the Supreme Court which would bind the parties thereto and also the court, tribunal or authority in any proceedings subsequent thereto by way of judicial discipline, the Supreme Court being the apex court of the country. But, this does not amount to saying that the order of the court, tribunal or authority below has stood merged in the order of the Supreme Court rejecting special leave petition or that the order of the Supreme Court is the only order binding as res judicata in subsequent proceedings between the parties."

9. From a perusal of Annexure P-3, it is evident that the Special Leave Petition preferred against the judgment dated 14.08.2015, passed by the Co-ordinate Bench of this Court in FAO No.18 of 2009 and FAO No.14 of 2009, was



dismissed by the Apex Court, while dismissing the Special Leave Petition, it was categorically observed in the judgment dated 11.11.2016 that the present respondent No.1/New India Insurance Company would be at liberty to file an appropriate application before the appropriate Court for recovery of amount from the owner of the car in accordance with law.

10. In view of the authoritative pronouncement laid down by the Apex Court in *Kunhayammed (Supra)*, statements contained in judgment dated 11.11.2016, other than on point of law is binding on the parties and the Court or Tribunal, whose order was under challenge on the principle of judicial discipline. No Court or Tribunal or party has the liberty of taking or canvassing any view contrary to the liberty expressed/provided by the Apex Court in the case at hand.

11. At this juncture, it would be pertinent to mention herein that clarification sought by the present petitioner/JD qua the judgment dated 11.11.2016 passed by the Apex Court was dismissed vide judgment dated 27.10.2017.

12. In view thereof, I see no reason to interfere in the judgment dated 07.11.2024 passed by the trial Court.



Parties are directed to appear before the Executing Court on 10th December, 2025.

13. In view of the aforesaid, present petition is dismissed being devoid of merit and so also the pending application(s), if any.

(Bipin Chander Negi)
Judge

27th November, 2025
(kiran)