



IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA
CMPMO No.622 of 2023
Decided on 09th September, 2025

Datta Ram and others

...Petitioners

Versus

United India Insurance Company Limited

...Respondent

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge

¹Whether approved for reporting? Yes

For the petitioners: Mr. Ganesh Barowalia, Advocate.

For the respondent: Dr. Lalit Kumar Sharma, Advocate.

Ajay Mohan Goel, Judge (Oral)

By way of this petition filed under Article 227 of the Constitution of India, the petitioner has assailed order dated 03.06.2023, passed by the learned Motor Accident Claim Tribunal-1, Sirmaur District at Nahan, Himachal Pradesh, in Execution Petition No.89-Exe/10 of 2017.

2. Brief facts necessary for the adjudication of this petition are that Sh. Man Dass had approached the Motor Accident Claims Tribunal by way of a claim petition under Section 166 of the Motor Vehicles Act seeking compensation on account of the death of Sh. Moti Ram in a Motor Vehicle Accident Claims Tribunal.

3. The claim petition of Man Dass was allowed by the learned Tribunal in terms of Annexure P-1 dated 30.10.1996. Learned Tribunal awarded compensation to the tune of Rs.50,000/- in favour of Man Dass.

4. It is a matter of record and not disputed that in the appeal that was preferred against the said award by the Insurance Company, this Court modified the award passed by the learned Tribunal to the effect that the Insurance Company was called upon to pay the amount at the first instance and thereafter recover the same from the owner of the vehicle. The petitioners before this Court are the owners of the vehicle. Thereafter, the Insurance Company filed an execution petition for the execution of the award, in terms of the order passed by this Court on 27.05.2005 seeking recovery of the amount from the owners of the vehicle that was paid by the Insurance Company to the claimants. In terms of the impugned order, learned Tribunal has allowed the execution petition and petitioners herein have been fastened with the liability as is mentioned therein to indemnify the Insurance Company. Feeling aggrieved, the petitioners have approached this Court.

5. Learned counsel for the petitioners has *inter alia* argued that the order passed by the learned Executing Court is not sustainable in the eyes of law for the reason that the Insurance Company could not have had filed an execution petition and at the maximum it could have filed a suit for recovery against the petitioners on the strength of the order that was passed by this Court in FAO. He further submitted that besides this, otherwise also, the order under challenge is not sustainable for the reason that the execution proceedings were initiated by the Insurance Company after the expiry of limitation and this extremely important aspect of the matter has been completely ignored by the learned Executing Court while passing the impugned order.

6. On the other hand, learned counsel for the respondent referred to the order of this Court passed in FAO No.247 of 1997, dated 27.05.2005 and stated that in fact this Court in this order itself observed that the Insurance Company shall be entitled to recover this amount from the owners without filing any separate suit and by filing execution proceedings before the concerned Motor Accident Claims Tribunal. He further submitted that there is no limitation prescribed for filing execution

in Motor Accident matters. Accordingly, learned counsel submitted that as there is no merit in the present petition, the same be dismissed.

7. I have heard learned counsel for the parties and have also carefully gone through the impugned order as well as other documents appended therewith.

8. In the light of the fact that this Court while disposing of FAO No.247 of 1997, in terms of order dated 27.05.2005 had observed that the Insurance Company shall be entitled to recover the amount after satisfying the compensation awarded by the Tribunal from the owner without filing any separate suit and by filing execution proceedings before the concerned Motor Accident Claims Tribunal, this Court is of the considered view that the contention of the learned counsel for the petitioners that the execution petition for the recovery of the amount was not maintainable has no merit.

9. Therefore, the course that was adopted by the Insurance Company to recover the amount cannot be faulted with.

10. However, as far as the second contention of the learned counsel for the petitioners qua limitation is concerned, it appears that there is merit therein. The FAO was disposed of by

this Court on 27.05.2005, in terms whereof, the order passed by the learned Tribunal was modified to the extent that Insurance Company was given the right to pay and recover the compensation amount from the owners. Execution for the recovery of this amount ought to have been filed within a period of 12 years as from the date of the announcement of the award/order in appeal. As mentioned hereinabove, though the order was passed on 27.05.2005, but, the execution proceedings were preferred by the Insurance Company on 16.11.2017 i.e., beyond the period of 12 years as from the date of the passing of the award. In this backdrop, if one peruses the findings returned by the learned executing Court while deciding issue No.2 as to whether the petition was barred by limitation, one finds that the findings returned by the learned Tribunal while deciding this issue are not sustainable in law. The findings returned by the learned Court below that an application under Section 174 of the Motor Vehicle Act can be filed at any time and there is no limitation for moving such application because there is no limitation for filing a claim petition for the grant of compensation under the Motor Vehicle Act in the facts of this case are not sustainable.

11. This Court is making this observation for the reason that herein first of all the execution proceedings were not filed by the claimants. Herein, it is the Insurance Company which filed the execution proceedings in the light of the right reserved to it by this Court in the course of the adjudication of the FAO. Now, because, it is settled law that the period for the execution of a judgment etc., is 12 years, the Insurance Company should have been vigilant enough to have had approached the executing Court within the limitation period i.e., 12 years. Further the observation of the learned Tribunal that limitation is not applicable for the reason that in terms of Section 174, the recovery of the amount is to be done on the basis of the issuance of a certificate for the amount by the Collector also does not convince this Court for the reason that this procedure for recovery and for satisfaction of decrees etc., is not something which is available under Section 174 of the Motor Vehicle Act only. This provision is there in umpteen numbers of statutes wherein, if the party fails to satisfy the judgment/decreed etc., then, one can resort to such kind of proceedings for the satisfaction of the judgment/decreed. However, in all such like proceedings, the period of limitation still remains 12 years. The party has to approach the executing Court within a

period of 12 years as from the date when the period of limitation starts for the execution of the order or judgment or decree and in case the party approaches the executing Court within a period of 12 years, then, the mode of execution as may be referred in a statute would govern as to how the recovery is to be effected. But, this provision cannot be construed to mean that no limitation is there for filing an execution under Section 174 of the Motor Vehicle Act.

12. Now, incidentally, in this case, opportunity was granted to the learned counsel for the respondent on the previous dates to apprise this Court as to whether the judgment passed by this Court in FAO was assailed before the Hon'ble Supreme Court by way of an SLP and if yes as to whether there was any stay etc., granted by the Hon'ble Supreme Court so as to determine the period of 12 years. However, nothing has been made available by the respondent to this Court to show that any appeal was preferred and if preferred whether there was any stay granted or not.

13. Therefore, but natural, it has to be construed that in the present case, the period of limitation started from the date of the delivery of the order by this Court in FAO and because

admittedly the execution was not filed within 12 years as from the date of the decision of the FAO by this Court, the execution was time barred. As this aspect of the matter has not been rightly appreciated by the learned Tribunal, the impugned order is liable to be set aside.

14. Accordingly, in the light of the above observations this petition is allowed. The order under challenge in Execution Petition No.89-Exe/10 of 2017, dated 03.06.2023, is set aside by holding that the execution proceedings was time barred. Pending miscellaneous applications, if any, stand disposed of.

(Ajay Mohan Goel)
Judge

September 09, 2025
(Vinod)