

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

**C.R. No. 622 of 2009 (O&M)  
Date of Decision : 31.8.2009**

Harish Chander

..... Petitioner

Versus

Purshotam Lal & others

..... Respondents

**CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA**

Present : Mr. R.S. Mamli, Advocate  
for the petitioner.

Mr. Vinod Gupta, Advocate  
for respondent No.3.

Ms. Maninder Kaur , Advocate  
for respondent No. 4.

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**VINOD K. SHARMA, J. (ORAL)**

This order shall dispose of Civil Revision No. 622 of 2009 titled Harish Chander Vs. Purshotam Lal & others and Civil Revision No. 652 of 2009 titled Kamlesh Rani & others Vs. Purshotam Lal & others.

By way of these revision petitions the petitioners have challenged the order passed by the learned Motor Accident Claims Tribunal, Kurukshetra vide which application moved by the petitioners for release of the compensation awarded, has been declined, for the reason that the amount can only be withdrawn after the security is given by the owner to the insurance company for refund of the amount.

In view of the liberty granted to the Insurance Company in main award to recover the amount from the owner of the offending vehicle, the impugned order has been passed by the learned Motor Accident Claims Tribunal.

The impugned order reads as under :-

*"MACT Case No. 33 of 2004 titled Harish Chand Versus Purshotam Lal was decided by my learned Predecessor by award dated 14.3.2005. Two other cases bearing No. 34 of 2004 titled Harish Chand Versus Purshotam Lal and No. 35 of 2004 titled Kamlesh Rani etc. Versus Purshotam Lal etc. of the same occurrence were also pending which were also decided by the same award.. Application has been made for release of amount in MACT Case No. 33 of 2004 titled Harish Chander Versus Purshotam Lal and MACT Case No. 34 of 2004 titled Harish Chander Versus Purshotam Lal. The application be registered. Amounts of Rs. 10,000/- and Rs. 1,36,360/- respectively were awarded in said cases. It was further directed that amounts shall be payable by respondent No.3 National Insurance Company Limited and it shall be entitled to recover the same from respondent No.1 and 2 namely*

*Purshotam Lal and Leveleen Kaur. It was further directed that unless security was furnished by the driver and owner. The amount shall not be disbursed to the petitioner.*

*No security has so far been furnished. Learned counsel for the applicant has contended that the amount was put in the fixed deposit and the FDR has matured. Be that as it may, this Court cannot go beyond the order passed by my learned Predecessor. The amount cannot be disbursed till security is furnished as ordered by him. The application for release of the amount is therefore rejected. However, to save the petitioner from financial loss, it is directed that the FDR be got renewed for further period of one year. File be consigned."*

The learned counsel for the petitioners contends that the impugned order is patently without jurisdiction, as the learned Motor Accident Claims Tribunal has no such jurisdiction to withhold the decretal amount. The decree-holder is entitled to recover under the award. Once the liability was fixed on the Insurance Company with liberty to recover the same from the owner it could not in any way affect the rights of the petitioners, who have absolute right to recover the amount deposited for payment with the executing Court.

I find force in the contention raised. The Tribunal was bound to release the amount deposited by the Insurance Company to the petitioners in execution of the award. The learned Tribunal could not withhold the amount merely` for want of security by the owner to the insurance company for refund of the amount. The amount is to be recovered by the Insurance Company from the owner, in which the petitioners i.e. the claimants have no roll whatsoever.

For the reasons stated above, both the revision petitions are allowed. The impugned order is set aside. The learned Motor Accident Claims Tribunal, Kurukshetra is directed to release the awarded amount to the claimants / petitioners immediately.

31.8.2009  
'sp'

**( VINOD K. SHARMA )**  
**JUDGE**