courtkutchehry.com

Company: Sol Infotech Pvt. Ltd.

Website: www.courtkutchehry.com

Printed For:

Date: 25/10/2025

Bihari Lal Shanu Ram Vs Bihari Lal Wadhwa and Another

Civil Revision No. 2415 of 1989

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Aug. 3, 1990

Acts Referred:
Succession Act, 1925 â€" Section 306

Citation: (1991) 2 ILR (P&H) 183

Hon'ble Judges: J.V. Gupta, C.J; R.S. Mongia, J

Bench: Division Bench

Advocate: Jagdish Manchanda, for the Appellant; Anil Khetrapal, for the Respondent

Final Decision: Dismissed

Judgement

R.S. Mongia, J.
This Civil Revision was heard by learned Single Judge and was referred for a decision by a larger Bench and that is how

we are seized of the matter.

2. The question to be decided in this petition is whether the amount of compensation awarded in favour of legal-representatives of a person, who

dies in an accident, could be attached in execution of the decree against the deceased ?

3. Briefly, the facts of the case are that Petitioner M/s Bihari Lal Shannu Ram obtained a money decree for Rs. 5,145.30 against Bihari Lal and

Nand Lal, Respondents. The said Bihari Lal died in an accident. His legal-representatives filed an application for compensation under the Motor

Vehicles Act. The Motor Accidents Claims Tribunal awarded a sum of Rs. 1,06,140 as compensation to the legal heirs of Bihari Lal,--vide

award" dated 21st October, 1988. In the execution application filed by the decree-holder M/s Bihari Lal Shannu Ram, decretal amount of Rs.

5,145.30 was attached. The legal-representatives of the deceased judgment-debtor Behari Lal raised an objection that the said amount of

compensation could not be attached in execution of a decree against deceased Bihari Lal. The learned Tribunal held that the said amount could not

be attached. Dissatisfied with that judgment, the Petitioner had filed the present revision petition.

4. The question to be determined is as to whether the compensation to the legal-representatives which is awarded by the Tribunal on the death of a

person, can be said to be the estate of the deceased. If the compensation awarded to the legal-representatives is estate or asset of the deceased,

then certainly it can be attached by a decree-holder for satisfaction of the decree against the deceased, but if it is not so, then the compensation

cannot be attached.

5. The compensation in the hands of the legal-representatives is not the estate of the asset of the deceased. It is something given by way of

compensating to the legal-representatives because of the loss etc. suffered by them on account of the death of the deceased. In order to hold that a

particular properly belonged to the estate of the deceased, it must be seen: (a) that the property must be in existence at any time before the death

of the deceased; (b) the deceased must have a beneficial interest, be it in praesenti or contingent, in the property; (c) the deceased must be in

possession and control, be it actual, constructive or beneficial, of the property and (d) the deceased must have power to dispose of such property.

The amount of compensation awarded by the Tribunal is payable to deceased"s heirs only and on account of his death. The said amount cannot be

said to have been a part of the estate of the deceased, and is not attachable as the asset of the deceased in the hands of the legal representatives. A

similar point had arisen before the Madras High Court in Janki alias Pattammal and Ors. v. Prabaih Finance by Partner R. Parbhakaran 1986 (1)

ACJ. 306, and it was held that the compensation in the hands of the legal-heirs of the deceased is not attachable in execution of a decree against

the deceased.

6. The learned Counsel for the Petitioner relied upon a Division Bench judgment of this Court in Joti Ram and Ors. v. Chaman Lal and Ors. 1984

ACJ. 645 to contend that, the compensation in the hands of the legal-representatives of the deceased is liable to be attached in execution of a

decree aganist the deceased. After going through the judgment, we find that the point to be decided in this revision petition was not before the

Division Bench in Joti Ram"s case (supra). What had happened in that case was that one Kaviraj Ram Singh had sustained injuries in an accident

and he filed a claim petition before the Accident Claims Tribunal for compensation for the bodily injuries which he had received in the accident.

Unfortunately, during the trial, he died and his legal-representatives moved an application for being impleaded as claimants. That application was

opposed on the ground that the cause of action being personal to the deceased did not survive after his death. This plea was upheld by the Tribunal

and the claim petition was dismissed. The Division Bench while considering the provisions of Section 306 of the Indian Succession Act, held that

action for personal injuries, short of causing death, abates with the death of the deceased or the injured and does not survive to the legal heirs.

However, the Bench held that if an action is initiated by an injured person for compenstation in respect of items which involve loss to his property,

to that extent the right to sue would survive to the legal-representatives when he dies during the pendency of an action. Therefore, the claim of

damages on account of loss to the estate of the injured would not abate on his death. As stated above, Joti Ram"s case (supra) is of no assistance

to the learned Counsel for the Petitioner.

7. We are in respectful agreement with the view taken by the Madras High Court in Janki"s case (supra) and hold that the compensation in the

hands of the legal heirs of the deceased is not an estate of the deceased, and, therefore, cannot be attached by a decree-holder in execution of a

decree against the deceased.

8. Consequently, the revision petition fails and is dismissed. However, there will be no order as to costs.