

GAHC010049682024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/1399/2024

REBATI HAZARIKA
W/O- LT. TANKESWAR HAZARIKA, R/O- VILLAGE- SONARIGAON, P.S.
KALIABOR, DISTRICT- NAGAON, ASSAM, PIN- 782143

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE COMMISSIONER SECRETARY GOVERNMENT OF
ASSAM, JUDICIAL DEPARTMENT, DISPUR, GUWAHATI, PIN NO. 781006

2:THE CHIEF MANAGER
STATE BANK OF INDIA
KALIABOR BRANCH
P.O. KUWARITOL
DISTRICT- NAGAON
ASSAM
PIN NO. 78213

Advocate for the Petitioner : J U AHMED

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

15.03.2024

This is an application under Article 227 of the Constitution of India whereby intervention of this Court has been sought for in respect of certain

orders passed by the learned M.A.C.T., Nagaon in connection with an award dated 16.11.2019 passed in MAC Case No. 86/2015.

Considering the subject matter and as agreed to by the learned counsel for the parties, this petition is disposed of at the motion stage.

The petitioner claims to be a lady aged about 82 years. She had instituted a claim before the M.A.C.T., Nagaon on account of the death of her son in a road traffic accident which was registered as MAC Case No. 86/2015. The said case was disposed of by awarding an amount of Rs.9,12,000/- out of which an amount of Rs. 5,00,000/- was to be deposited in the name of the petitioner and the balance of Rs. 5,00,000/- was to be deposited in 5 FDRs of Rs.1,00,000/- each for different periods.

The petitioner who is stated to be suffering from various old age ailments and is in requirement of medical treatments had filed an application for direction for release of the amount which was deposited in the form of FDR. The learned Tribunal vide order dated 16.03.2022 had directed release of an amount of Rs.3,00,000/-. Subsequently, further application was filed being petition no. 3849 / 2023 on 13.12.2023 for release of the balance amount of Rs.2,00,000/-. The said application was however rejected by the learned Tribunal vide order dated 13.12.2023 on the ground that the application was not supported by any medical documents. Subsequently, the petitioner had filed another petition no. 4046/2023 on 18.12.2023 along with medical documents. The learned Tribunal however vide order dated 18.12.2023 had come to a finding that the documents annexed do not suggest that the petitioner was advised further medical treatment for which the money might be required and accordingly the petition was rejected.

I have heard Shri S.A. Reyaz, learned counsel for the petitioner. I have also heard Shri H. Sharma, learned Addl. Senior Government Advocate, Assam for the respondent no. 1.

In view of the order sought to be passed finally disposing of this petition, no notice is required to be issued to the respondent no. 2 which otherwise also does not appear to be a necessary party.

The learned counsel for the petitioner has referred to the documents pertaining to the treatment of the petitioner including a Certificate dated 01.02.2024. The consideration of the petition by the Tribunal was of a prior date, i.e., 18.12.2023 and therefore it cannot be held *per se* that the order impugned is not in accordance with law. However, at the same time, it is not in dispute that the initial award of the Tribunal dated 16.11.2019 has attained finality and no appeal whatsoever was preferred by any aggrieved party.

It is further not in dispute that the petitioner is presently aged about 82 years and the certificate dated 01.02.2024 which has been annexed to this petition would reflect that the petitioner is in requirement of higher investigation and treatment.

The entitlement of the petitioner towards the balance amount in question not being questioned in any higher forum, taking into consideration the age of the petitioner and the health condition which has been pleaded and substantiated by certain documents, this Court is of the view that interest of justice would be served if her petition for release of the balance amount of Rs.2,00,000/- which is in the form of FDR is directed.

Accordingly, it is directed that the balance amount of Rs.2,00,000/- which is in the form of FDR be allowed to be released to the petitioner along with

interest which might have been accrued by this time.

Petition accordingly stands allowed.

JUDGE

Comparing Assistant