

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Civil Revision No. 87 of 2015**

1. Sadaram Sarthi S/o Shri Ruplal, Aged About 30 Years
Occupation- Taiquando Trainer, R/o Village- Sitapur, P. S. And
Tehsil- Sitapur, District- Surguja (Chhattisgarh), (Claimant)

---- Petitioner

Versus

1. Chandrika Prashad S/o Indrajeet Singh, Aged About 22 Years
Occupation- Driver, R/o Village- Kushu, P. S. Darima, District-
Surguja (Chhattisgarh)
2. Mohd. Nasir S/o Rashid, aged major Occupation- Jeep Owner,
(C. G. 15- Z D/2031), R/o Ward No. 12, Lakhanpur, P. S. And
Tehsil- Lakhanpur, District- Surguja (Chhattisgarh)
3. Branch Manager The United Insurance Company Limited,
Branch Office, Brahm Road, Ambikapur, District- Surguja
(Chhattisgarh)

---- Respondent

For applicant

: Shri A.N. Panedy, Advocate.

HON'BLE SHRI JUSTICE CHANDRA BHUSHAN BAJPAI**ORDER****02/09/2015**

1. Heard on admission.
2. The applicant has preferred the instant Civil Revision against the order passed in MAC No. 33/2010 for permission to withdraw the amount of Rs.4,00,000/- before the date of maturity of the fixed deposit. Vide order dated 14.7.2015 the learned Motor Accident Claims Tribunal (for short the 'Tribunal') Surguja (Ambikapur) (CG) allowed the prayer made in this behalf for Rs.1,00,000/- only and further ordered to keep the remaining amount in the fixed deposit.

3. On behalf of the applicant it is submitted that the order is perverse, illegal and contrary to the grounds raised by the applicant. The learned court below erred by not considering the material available. The money was required for payment of fee of the children. The applicant is not in a position to pay the fees for studies of the children and the amount taken from the relatives on loan for studies was required to be repaid. Consequently, it is prayed that the order of the Tribunal be set aside and remaining amount of Rs. 3,00,000/- also be allowed to be withdrawn for the need of the applicant.

4. In support of the revision, learned counsel for the applicant placed reliance on 2004 (1) CGLJ 66 Ramphal Vs. Sukhram & Anr. whereby the learned Single Judge has held that "Considering the benevolent scope of the law, realities of life and optimum utilisation of amount the application for withdrawal was allowed with direction to ensure that after 3 months applicant should file documents with affidavit regarding proper utilization of the amount."

5. Learned Counsel for the applicant prayed that on the basis of the grounds mentioned in the instant Civil Revision, the same may be allowed and the order of the Tribunal be set aside and the entire amount deposited in the CCD be permitted to be withdrawn.

6. In order to appropriate the element of admission for final hearing this Court has to see what illegality or impropriety has been committed by the Court below. So far as the amount of

compensation is concerned, the amount of compensation granted is kept in fixed deposit and cash is also given for the welfare of the applicant. It is not the right of the applicant to get each and every amount in cash. Therefore, the principles which the Claims Tribunal used to apportion the amount for fixed deposit and the amount given in cash, no illegality or impropriety appears to be committed by the Court concerned. Further, as per facts of the case by the order dated 10.4.2014 passed in MAC No. 697/2012 and MAC No.707/2012, the appellant Sadaram Sarthi was granted compensation for Rs. 9,04,517/- including the amount of compensation granted by the Tribunal.

7. The case law relied is not relevant and applicable to the facts and circumstances of the present case as in Ramphal's case (Supra) award of Rs.1,85,010/- has been passed and out of the award Rs.1,15,010/- were directed to be deposited for a period of 10 years. The applicant was in need to purchase the land and construct house on the said land. In the instant case the award passed is on the higher side and 70% of the total amount has been paid to the applicant in cash. With this distinguishable fact, the cited case is not of any help to the applicant.

8. Upon perusal of the order sheet dated 14.7.2015, it appears that the Tribunal has disbursed in cash Rs.5,04,517/- in total before passing of the order and again awarded Rs.1,00,000/-, which shows that Rs.9,04,517/- was the award in total and only 30% of the entire amount kept in fixed deposit that too after

appreciation of the number of children of the applicant and their future needs. Even after appreciation of the entire facts and circumstances of the case, the impugned order dated 14.7.2015 may not be held as harsh and arbitrary. In the view of this Court, the instant Civil Revision is not liable for admission.

9. Consequently, it is dismissed at the motion stage itself. Copy of the order be sent to the Court below for information.

10. No order as to cost.

Sd/

(Chandra Bhushan Bajpai)
JUDGE