

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (227) No. 01 of 2016**

Mutulal Suryawanshi S/o Late Shri Laidas Suryawanshi, Aged About 62 Years R/o Behind Kunji House Parasabhatha Balco Nagar Korba, P.S. Balco, Civil & Revenue District Korba Chhattisgarh...
Claimant No. 3

---- Petitioner**Versus**

1. Rajkumar Kanwar S/o Shri Raghuwar Singh Kanwar, Aged About 29 Years R/o Village Kumhari Khurd, Thana Baradwar, Civil & Revenue District Janjgir Champa Chhattisgarh (Driver Vehicle Truck No. C.G. 04 J.B. 5491)
2. Kripal Singh, S/o Shri Sohan Singh, R/o Mahendra Singh Complex, Tatibandh, P.S. Telibandha, Civil & Revenue District Raipur Chhattisgarh (Owner Vehicle Truck No. C.G. 04 J.B. 5491)
3. National Insurance Company Limited, Thorugh Branch Manager, Office 13 Meenu Complex Kasabadi Korba, P.S. Kotwali, Korba, Civil & Revenue District Korba Chhattisgarh (Insurer Vehicle Truck No. No. C.G. 04 J.B. 5491)
4. Smt. Priti Suryawanshi Wd/o Late Shri Uttam Kumar Suryawanshi, Aged About 22 Years R/o Behind Kunji House Parasabhatha Balco Nagar Korba, P.S. Balco, Civil & Revenue District Korba Chhattisgarh..... Claimants
5. Ku. Manvi Suryawanshi, D/o Late Shri Uttam Kumar Suryawanshi, Aged About 6 Years Minor Thorugh Natural Guardian Mother Smt. Priti Suryawanshi Wd/o Late Shri Uttam Kumar Suryawanshi, R/o Behind Kunji House Parasabhatha Balco Nagar Korba, P.S. Balco, Civil & Revenue District Korba Chhattisgarh
6. Smt. Chandrika Bai, W/o Shri Mutulal Aged About 58 Years Respondent No. 4 to 6 are R/o Behind Kanji House Parasabhatha Balco Nagar Korba, P.S. Balco, Civil & Revenue District Korba Chhattisgarh

---- Respondents

For Petitioner	:	Shri Samir Singh, Advocate.
For Respondents	:	Not noticed.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order on Board****07/01/2016**

(1) The present writ petition is directed against the impugned order dated 28.11.2015 passed by the Additional Motor Accident Claims

Tribunal, Korba, Chhattisgarh in MJC No. 22 of 2015, whereby and whereunder the Court below has rejected the prayer of the Petitioner for encashment of the fixed deposit in part for the purpose of his treatment.

(2) Learned counsel for the Petitioner submits that all the Respondents are not the necessary parties as they have no objection for encashment in part of the fixed deposit made in consequence of the award passed by the Court below on 7.5.2014 and therefore prays for disposal of the instant petition without hearing the Respondents.

(3) For the purpose of disposal of the instant WP (227), the materials available on the record of the instant WP (227) are perused.

(4) On due consideration, this Court is of the view that all the Respondents are not necessary parties for hearing the instant WP (227) and the same can be disposed of only by hearing the Petitioner.

(5) Consequently, the petition is heard finally at the motion stage itself.

(6) As per brief facts of the case, vide award dated 7.5.2014, the Court below in Claim Case No. 99 of 2013 directed that the Petitioner is entitled for certain amount as mentioned in paragraph 34 sub-paragraphs (d) and (e) of the award thereby the Petitioner is entitled for Rs.1,15,500/- as compensation individually. Out of this amount, Rs.40,500/- has been paid in cash to the present Petitioner and the remaining amount of Rs.75,000/- was kept in a fixed deposit for three years in a Nationalized Bank. The Petitioner prays for release of more money for his treatment from the fixed deposit which is made in the name of the Petitioner. The Court below rejected the prayer because

documents regarding the treatment were not filed by the Petitioner and only a certificate from the doctor was filed. Hence, the Court below did not find sufficient and proper ground for release of amount to the Petitioner out of the fixed deposit before maturity.

(7) Against the aforesaid impugned order, the Petitioner has moved this Court under Article 227 of the Constitution of India for relief.

(8) It is submitted on behalf of the Petitioner that the Petitioner is at present aged about 65 years. At the time of accident of his son Uttam Kumar Suryawanshi, who, as a result of the said accident, died, he was aged about 62 years and dependent on him and he has no independent source of income. He is taking treatment for his ailment, High Blood Pressure, Diabetes and other consequential problems. He is in a fit state for proper utilization of any amount, if released. It is prayed that he may be given some money before maturity and the remaining may be kept in the fixed deposit again till maturity.

(9) Upon consideration of the entire facts i.e. the age of the Petitioner, he better understands his welfare, he is suffering from decease and he has no independent source of income, it would be appropriate to release a sum of Rs.30,000/- out of amount kept in the fixed deposit and keep the remaining amount again in the fixed deposit till the maturity period.

(10) Consequently, the writ petition is hereby allowed. The Court below is directed to release the sum of Rs.30,000/- out of the fixed deposit in the name of the Petitioner in cash before the maturity immediately and it is further directed to keep the remaining amount of Rs.45,000/- alongwith

interest, if any, again in a fixed deposit in the name of the Petitioner till the maturity of the fixed deposit.

(11) No order as to costs.

(12) Certified copy as per rules.

Sd/-

(Chandra Bhushan Bajpai)
JUDGE

Nimmi