

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 322 of 2016

1. Suresh Kumar Dewar S/o Late Kartikram Dewar, Aged About 23 Years R/o Village Akaltari, Police Station Ratanpur, Tahsil & District Bilaspur (Chhattisgarh)
2. Ganeshram Dewar, S/o Late Kartikram Dewar, Aged About 21 Years R/o Village Akaltari, Police Station Ratanpur, Tahsil & District Bilaspur (Chhattisgarh)

---- Petitioners

Versus

1. Samaruram Yadav S/o Shivprasad @ Kanha Yadav, Aged About 40 Years R/o Mohalla Budhwaripara, Ratanpur, Police Station Ratanpur, Tahsil & District Bilaspur (Chhattisgarh)
2. Chandrashekhar Sahu S/o Baldou Sahu, Aged About 28 Years R/o Ward No. 13, Purana Panchayat Bhawan, Tifra, District Bilaspur (Chhattisgarh)
3. I.C.I.C.I. Lombard General Insurance Company Limited, Through The Branch Manager, Branch Office 304, 306 Lalganga Shopping Mall Complex, Third Floor, G.E. Road, Raipur (Chhattisgarh)

---- Respondents

For Petitioners	:	Shri Sanjay Agrawal, Advocate on behalf of Shri Goutam Khetrapal, Advocate
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Respondents not noticed.

**(Hon'ble Shri Justice Chandra Bhushan Bajpai)
Order On Board**

11/05/2016

1. It is submitted on behalf of the petitioners that looking to the entire facts, as the question relates to encashment of the Fixed Deposit already in favour of the petitioners and the respondents are not answering and contesting party, the instant Writ Petition(227) may be heard finally at the motion stage itself without noticing to the respondents.

2. On due consideration, the matter is heard finally without noticing to the respondents as they are formal party in the matter in hand.

3. Learned counsel for the petitioners submits that as per order passed by the trial Court in Motor Accident Claims Case No. 638/2014, the Claims Tribunal had directed that out of the impugned award, Rs.65,000/-, 65,000/- shall be deposited in the names of the present petitioners in Fixed Deposit for a period of 3 years and rest of the amount i.e. Rs.50,000/- is directed to be disbursed in cash i.e. Rs.25,000/-, 25,000/- to both the applicants. Both the applicants are the sons of deceased- Smt. Shanti Bai, who met with an accident and died subsequently during treatment. The petitioners have taken loan towards the treatment, last rituals and other expenses as required, therefore, they be permitted to encash the said Fixed Deposit prematurely and the order passed by the Court below dated 11.3.2016 may be quashed.

4. Learned counsel for the petitioners supported the grounds taken in the instant Writ Petition (227) and submits that the petitioners are in need of money deposited in their names in the Fixed Deposit for a period of 3 years for repayment of the loan taken for treatment, last rituals and other expenses of their mother. He further submits that though the Fixed Deposit is for the welfare of the petitioners, but looking to the loan taken, it would be appropriate to allow to encash Rs.25,000/-, 25,000/- from the Fixed Deposit to both the petitioners and the remaining amount of Rs.40,000/-, 40,000/- may be kept in the Fixed Deposit for the period shown in the said Fixed Deposit.

5. For the purposes of above arguments advanced in this behalf, I have perused the record, the order passed by the Court below dated 11.3.2016 and the documents annexed.

6. On due consideration, looking to the entire facts and that the petitioners are required some money to repay the loan taken, the instant Writ Petition(227) is hereby disposed of. The petitioners are permitted to encash the said Fixed Deposit for Rs.25,000/-, 25,000/- and the remaining amount of Rs.40,000/-, 40,000/- shall be kept in the Fixed Deposit for the period already mentioned in the said Fixed Deposit.

7. The Court below is directed to issue necessary instructions to the Bank for compliance of this order. The petitioners may file copy of this order before the Court below for compliance.

8. Registrar (Judicial) is also directed to send a copy of the order to the Court below for compliance through usual and fax mode immediately.

9. The petition is disposed of.

10. No order as to cost.

11. Certified copy within 3 days.

Sd/

(Chandra Bhushan Bajpai)
Judge