In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No.1023 of 2016
Date of Decision:12.8.2016

Ashok Kumar and another

---Petitioners

vs.

Union Bank of India and others

---Respondents

Coram: **Hon'ble Mrs. Justice Rekha Mittal**

***

Present: Mr.Randeep Singh, Advocate
for the petitioners

Mr. Ashwani Arora, Advocate
amicus curiae

***

Rekha Mittal, J.

The present petition directs challenge against order dated 28.1.2016 passed by the Motor Accident Claims Tribunal, Karnal (in short “the Tribuhal”) whereby application filed by Ashok Kumar and Ms. Maya for release of compensation of their share deposited in fixed deposit receipts has been partly rejected.

Counsel for the petitioners would urge that both the petitioners have already attained the age of majority and they prayed for release of compensation on the premise that they are in dire need of money as their house is in a dilapidated condition and is not fit for human dwelling. It is further submitted that the learned Tribunal has allowed their prayer partly and 50% of the amount has been ordered to be disbursed on proper verification and against valid receipt. It is argued that the fact that the Tribunal has allowed release of 50% of the amount, it shows that the Tribunal has not doubted their plea that money is required for re-construction of their house which is in dilapidated condition. It is argued with vehemence that no such finding has been recorded by the Tribunal that 50% amount would be sufficient to satisfy requirement of the petitioners or the entire money is not needed for the said purpose much less their demand for release of the entire amount is malafide. The order passed by the Tribunal may be modified and the petitioners may be allowed to receive the entire amount.

I have heard counsel for the petitioners, perused the paper book and the various judgments dealing with the issue as to why amount of compensation is required to be deposited in fixed deposits and how to deal with a request of an award holder for premature release of fixed deposit receipts.

Hon'ble the Supreme Court of India in ***Kerala State Road Transport Corporation vs. Susamma Thomas and others, 1994(2) PLR 01*** by relying on certain principles enunciated in the case of ***Union Carbide Corporation vs. Union of India (1991)4 SCC 584*** and ***Muljibhai vs. United India Insurance Company Limited (1982) 23(1) Gujarat Law Reporter 756*** directed the accident claims Tribunal to observe the guidelines noticed in para 17 of the judgment, quoted hereinbelow:-

> "(i) The Claims Tribunals should, in the case of minors, invariably order the amount of compensation awarded to the minor invested in long term fixed deposits at least till the date of the minor attaining majority. The expenses incurred by the guardian or next friend may, however, be allowed to be withdrawn;
>
> (ii) In the case of illiterate claimants also the Claims Tribunal should follow the procedure set out in (i) above, but if lump sum payment is required for effecting purchases of any movable or immovable property, such as, agricultural implements, rickshaw, etc., to earn a

living, the Tribunal may consider such a request after making sure that the amount is actually spent for the purpose and the demand is not a rogue to withdraw money;

(iii) In the case of semi-literate persons the Tribunal should ordinarily resort to the procedure set out in (i) above unless it is satisfied, for reasons to be stated in writing, that the whole or part of the amount is required for expanding any existing business or for purchasing some property as mentioned in (ii) above for earning his livelihood, in which case the Tribunal will ensure that the amount is invested for the purpose for which it is demanded and paid;

(iv) In the case of literate persons also the Tribunal may resort to the procedure indicated in (i) above, subject to the relaxation set out in (ii) and (iii) above, if having regard to the age, fiscal background and strata of society to which the claimant belongs and such other considerations, the Tribunal in the larger interest of the claimant and with a view to ensuring the safety of the compensation awarded to him thinks it necessary to so order;

(v) In the case of widows the Claims Tribunal should invariably follow the procedure set out in (i) above.

(vi) In personal injury cases if further treatment is necessary, the Claims Tribunal on being satisfied about the same, which shall be recorded in writing, permit withdrawal of such amount as is necessary for incurring the expenses for such treatment;

(vii) In all cases in which investment in long term fixed deposits is made it should be on condition that the bank will not permit any loan or advance on the fixed deposit and interest on the amount invested is paid monthly directly to the claimant or his guardian, as the case may be;

(viii) In all cases Tribunal should grant the claimants liberty to apply for withdrawals in case of an emergency. To meet with such a contingency, if the amount awarded is substantial the Claims Tribunal may invest it in more than one fixed deposit so that if need be one such F.D.R can be liquidated."

In ***H.S.Ahammed Hussain vs. Irfan Ahammed 2002(3) RCR (Civil) 563***, the Apex Court has held that the amount of compensation payable to mothers of the victims should not have been directed to be kept in fixed deposits. In case the amounts have not been already invested, the same shall be paid to the mothers, but it, however, invested by depositing the same in fixed deposit in a nationalized bank, there may be its premature withdrawal in case the parties so intend.

This Court in ***Dharam Pal vs. Hoshiyar Singh and others 2007(5) RCR(Civil) 806*** has held that the purpose and object of the guidelines laid by Hon'ble the Supreme Court of India is to ensure that compensation amount does not fall in the hands of unscrupulous persons and slip away from the claimants who are otherwise victims of the accident. At the same time, the purpose of grant of compensation is to enable the family of the deceased to overcome their financial difficulties as also to provide little solace. The compensation is for well being of the family of the deceased/victim of the accident. If the amount of compensation is not allowed to be utilized by the family for any purpose, it serves no purpose.

In the instant case, the petitioners approached the Tribunal for release of the entire amount by alleging that money is required for reconstruction of their house which is not fit for human use. As has been rightly argued by counsel for the petitioners, the learned Tribunal has not expressed any doubt in the plea raised by the petitioners. On the contrary, the Tribunal has allowed disbursement of 50% of the amount. No reason has been assigned by the Tribunal as to how demand of the petitioners for release of remaining amount is unjustified or rest of the amount is not required for the purpose projected in the application. Though the Tribunal appears to have recorded statements of the petitioners but there is not even a whisper in the order as to how those statements were appreciated for accepting their request in part and rejecting the remaining part. In this view of the matter, it is a fit case where the matter requires reconsideration of the Tribunal qua prayer of the petitioners for release of remaining 50% amount.

In view of what has been discussed hereinabove, the petition is partly allowed. The impugned order rejecting prayer of the petitioners for release of remaining 50% amount is set aside and the matter is remitted to the Tribunal for adjudication afresh, in accordance with law. The Tribunal shall dispose of the matter within one month from the date of receipt of certified copy of the order.

(Rekha Mittal)
Judge

12.8.2016
paramjit

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No