

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.6119 of 2016

Date of Decision.19.09.2016

Vibha Gaur and another

.....Petitioners

Vs.

Oriental Bank of Commerce

.....Respondent

Present: Dr. Naresh Kaushik, Advocate
for the petitioners.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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AMIT RAWAL J. (ORAL)

The counsel for the petitioner submits that the Motor Accident Claims Tribunal, Panchkula vide award dated 09.10.2015 awarded an amount of ₹80 lacs, however, the aforementioned award has been challenged by the Oriental Insurance Company whereby this Court in FAO bearing No.2562 of 2016 passed an order dated 04.05.2016, extracted in the order impugned dated 30.08.2016, granted the stay subject to deposit of ₹30 lacs along with interest within six weeks for disbursement to the claimant and stayed the remaining amount. He submits that pursuant to the interim order granted by this Court, the following FDRs have been lying deposited in the bank *viz-a-viz* the claim of claimant Nos.1 and 4:-

FDR No.	In the name of	Amount deposited in rupees
206700	Vibha Gaur	70885
206701	-do-	70885
206702	-do-	70885
206704	-do-	70885
206705	-do-	70885

FDR No.	In the name of	Amount deposited in rupees
206706	-do-	70885
206707	-do-	70885
206716	-do-	70885
Total 8 FDRs		567080
206698	Janak Raj	64251
206717	Janak Raj	64251
206718	Janak Raj	64251
206719	Janak Raj	64251
Total 4 FDRs		257004/-

However, the Court below in pursuance of the application has only ordered for release of FDRs in part. He submits that the amount could not have been withheld as the insurance company has complied with the interim order.

I have heard learned counsel for the petitioner, appraised the paper book and of the view that no doubt in the application, there are certain averments made for releasing of the amount *viz-a-viz* having obtained the loan but the Executing Court cannot go behind the decree, much less, order payment in part in the absence of particulars of the loan transaction. Once order of the High Court dated 04.05.2016 is clear for disbursement, it cannot hold back the FDRs according to its own sweet will. It tantamounts to increasing the agony of the claimants who have already suffered at the hands of destiny on account of death of loved ones. Though the impugned order partly allowed the application for granting permission to the petitioners to withdraw the amount in respect of the FDRs mentioned therein, there is clear cut direction that the Court can not withhold the same.

In view of the aforementioned, the impugned order is set aside. The FDRs aforementioned deposited by the insurance company in the Oriental Bank of Commerce are ordered to be released to the petitioner

forthwith subject to furnishing of indemnity along with interest, if any.

The revision petition is allowed with the above modification.

(AMIT RAWAL)
JUDGE

September 19, 2016
Pankaj*

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