

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No.816 of 2016
Date of Decision:5.2.2016

Sandeep Kumar

---Petitioner

vs.

Sanjay Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. J.P.Sharma, Advocate
for the petitioner

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

Rekha Mittal, J.

The present petition lays challenge to order dated 3.10.2015 (Annexure P-3) dismissing the application filed by the petitioner for releasing the amount of compensation lying deposited in a fixed deposit receipt.

Counsel for the petitioner contends that compensation was awarded by the Motor Accident Claims Tribunal, Narnaul (in short “the Tribunal”) in respect of death of Vinay Kumar. The petitioner was awarded

compensation out of which 50% amount was paid in cash and the remaining 50% was deposited in a fixed deposit on 23.8.2014 for a period of three years in State Bank of Patiala, Narnaul. The fixed deposit would mature for payment on 23.8.2017.

Counsel for the petitioner further contends that application (Annexure P-2) filed for release of amount lying deposited in a fixed deposit for the purpose of construction of a house and other household necessities has been dismissed by the Tribunal solely on the ground that it would amount to review of an earlier order passed in regard to deposit of amount. It is vehemently argued that allowing the prayer of the petitioner, by no stretch of imagination, can be termed as review of earlier order, as has been held. According to counsel, the opinion of the Tribunal is fallacious on the face of it and demonstrates complete non-application of mind and misconstruing as to what review means. The question of review of an order would arise only if the earlier order had been passed by taking into consideration the merits of a particular issue. When the order in regard to deposit of 50% of the amount of compensation was made, neither the petitioner was heard nor he was given an opportunity to explain his needs inviting attention of the Court. Further dilating, it is urged that ordinarily the Tribunal while awarding compensation to victims of motor accidents makes order for deposit with a perception that the claimant may not be exploited by his relatives or other unscrupulous elements and compensation amount is utilized by its beneficiary, to make its best use. The last submission made by counsel is that the learned Tribunal has dismissed the application in a very casual and perfunctory manner, compelling the poor

claimant to approach this Court for release of money which actually belongs to him.

I have heard counsel for the petitioner, perused the records and find the contentions raised by the petitioner to be meritorious thus, warrant acceptance.

A relevant extract from the impugned order reads as follows:-

“.....It is no where mentioned in the order that the amount of FDR can be got released prematurely. This Court cannot review the order of the predecessor of this Tribunal. So, the amount of FDR cannot be released prematurely to the applicant and the application is hereby dismissed.”

Counsel for the petitioner is right in his submissions that the learned Tribunal has dismissed the application in a most casual and perfunctory manner. The order passed by the Tribunal, in my considered opinion, is not only erroneous but perverse to the hilt. We do not expect from our Judicial Officers, sufficiently experienced to dispose of the matters in a manner as has been depicted in the present case. In this view of the matter, the order impugned cannot be allowed to sustain and is accordingly set aside.

Counsel for the petitioner has fairly conceded that the application is not properly drafted and needs amendment to plead detailed facts in regard to the petitioner's requirements. He has prayed that the petitioner may be allowed to file a fresh application before the Tribunal, to be decided on its merits without being influenced by the earlier order.

In view of the above, the petition is disposed of with liberty aforesaid. However, the application shall be disposed of by the Tribunal on its merits.

(Rekha Mittal)
Judge

5.2.2016
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