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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of Decision: 31st August, 2016**

\+ MAC.APP. 472/2014

36 U.P. STATE ROAD TRANSPORT CORPORATION
THROUGH: ITS REGIONAL MANAGER ..... Appellant
Through: Ms. Garima Prashad, Advocate

versus

RANJEET KUMAR ..... Respondent
Through: Mr. Vijay Kinger and Ms. Bornali, Advocates

\+ MAC.APP. 872/2015

37 RANJEET KUMAR ..... Appellant
Through: Mr. Vijay Kinger and Ms. Bornali, Advocates

versus

U.P. STATE ROAD TRANSPORT CORPORATION ..... Respondent
Through: Ms. Garima Prashad, Advocate

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The Claims Tribunal has awarded compensation of Rs.8,97,650/- along with interest @ 9% per annum to Ranjeet Kumar, in respect of the injuries suffered by him in the accident dated 17th /18th May, 2010. The appellant in MAC. APP. 472/2014 is seeking reduction whereas the appellant in MAC. APP. 872/2015 is seeking enhancement of the award amount.

2. On 17th/18th May, 2010, Ranjeet Kumar, hereinafter referred to as "injured", was going to Badaun in bus No.UP-14-AB-9302. At about 02.00 A.M. in the night, the aforesaid bus met with an accident with another bus No.UP25T-7587 which resulted in grievous injuries including the fracture of

right arm of the injured. The injured was initially taken to Babu Banarasi Dass Rajkiya Chikitsalaya, Bulandshahar, U.P. and thereafter, to Safdarjung Hospital, Delhi. The injured remain hospitalised from 18th May, 2010 to 18th June, 2010. He underwent two surgeries, first surgery on 22nd May, 2010, for the external fixation of fracture shaft of Humerus (right side), open reduction/internal fixation of inter condylar fracture by K wire, and open reduction/internal fixation fracture shaft of Ulna and second surgery on 5th June, 2010 for K-wire fixation of acromioclavicular joint (right side) done under S/C block and SSG. The appellant was examined by the Medical Board constituted by Lal Bahadur Shastri Hospital, KhichriPur, Delhi and his disability was assessed as 44% in respect of his right upper limb.

3. The injured is present in Court and his condition has been seen. The injured is unable to do any work with his right hand. Though the injured is able to slowly write from his right hand but he cannot lift any weight. Considering the condition of the injured, this Court is of the view that the compensation of Rs.8,97,650/- is on the lower side and it warrants enhancement.

4. The compensation for pain and sufferings is enhanced from Rs.80,000/- to Rs.1,80,000/-, compensation for loss of amenities is enhanced from Rs.80,000/- to Rs.1,80,000/-, compensation for disfiguration and loss of expectation of life is enhanced from Rs.80,000/- to Rs.2,80,000/- and compensation for matrimonial prospects is enhanced from Rs.75000/- to Rs.1,83,180/-. The total compensation awarded to the injured is enhanced by Rs.5,08,180/- along with interest @ 9% per annum. If the enhanced award amount is deposited by 17th September, 2016, the interest from the date of filing of the petition up to 17th September, 2016 would be Rs.1,91,820/-, thus, making the total enhancement including the interest as Rs.7,00,000/-.

5. The appellant present in Court along with his counsel does not press for enhancement on the ground of loss of earning capacity in view of fair compensation awarded to the injured by way of aforesaid enhancement.

6. The appellant in MAC.APP.472/2014 has deposited the award amount with the Registrar General of this Court in terms of the order dated 26th May, 2014 out of which 70% amount has already been released to the injured and balance Rs.2,98,358.40 is lying in fixed deposit.

7. The Registrar General is directed to transfer the aforesaid amount to the UCO Bank in A/c No.20780110074824 of the injured.

8. U.P. State Road Transport Corporation is directed to deposit enhanced amount with UCO Bank by means of a cheque drawn in the name of UCO Bank - Ranjit Kumar A/c No.20780110074824.

9. Upon deposit of the enhanced award amount by U.P. State Road Transport Corporation and transfer of FDR amount by the Registrar General in terms of para 7 above, UCO Bank shall release Rs.50,000/- to injured and keep the balance amount in fixed deposit in the following manner:-

Sr. No.	**Duration of FDRs**	**Percentage of awarded amount**
1.	1 yr	**10%**
2.	2 yrs	**10%**
3.	3 yrs	**10%**
4.	4 yrs	**10%**
5.	5 yrs	**10%**
6.	6 yrs	**10%**
7.	7 yrs	**10%**
8.	8 yrs	**10%**
9.	9 yrs	**10%**
10.	10 yrs	**10%**
TOTAL		**100%**

10. In ***Jai Prakash vs M/S. National Insurance Co.***, (2010) 2 SCC 607, the Supreme Court gave the following directions for protection of the award

amount: -

*"**Problem (iv)***

13. *Courts have always been concerned that the full compensation amount does not reach and benefit the victims and their families, particularly those who are uneducated, ignorant, or not worldly-wise. Unless there are built-in safeguards they may be deprived of the benefit of compensation which may be the sole source of their future sustenance. This court has time and again insisted upon measures to ensure that the compensation amount is appropriately invested and protected and not frittered away owing to ignorance, illiteracy and susceptibility to exploitation. [See Union Carbide Corporation v. Union of India - 1991 (4) SCC 584 and General Manager, Kerala State Road Transport Corporation v. Susamma Thomas - 1994 (2) SCC 176]. But in spite of the directions in these cases, the position continues to be far from unsatisfactory and in many cases unscrupulous relatives, agents and touts are taking away a big chunk of the compensation, by ingenious methods.*

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28. *To protect and preserve the compensation amount awarded to the families of the deceased victim special schemes may be considered by the insurance companies in consultation with the Life Insurance Corporation of India, State Bank of India or any other Nationalized Banks. One proposal is for formulation of a scheme in consultation with Nationalized Banks under which the compensation is kept in fixed deposit for an appropriate period and interest is paid by the Bank monthly to the claimants without any need for claimants having to approach either the court or their counsel or the Bank for that purpose. The scheme should ensure that the amount of compensation is utilized only for the benefit of the injured claimants or in case of death, for the benefit of the dependent family. We extract below the particulars of a special Scheme offered by a nationalized Bank at the instance of the Delhi High Court :*

(i)The fixed deposit shall be automatically renewed till the period prescribed by the Court.
(ii)The interest on the fixed deposit shall be paid monthly.

(iii)The monthly interest shall be credited automatically in the saving account of the claimant.
(iv)Original fixed deposit receipt shall be retained by the Bank in safe custody. However, the original passbook shall be given to the claimant along with the photocopy of the FDR.
(v)The original fixed deposit receipt shall be handed over to the claimant at the end of the fixed deposit period.
(vi)Photo identity card shall be issued to the claimant and the withdrawal shall be permitted only after due verification by the Bank of the identity card of the claimant.
(vii)No cheque book shall be issued to the claimant without permission of the court.
(viii)No loan, advance or withdrawal shall be allowed on the fixed deposit without permission of the court.
(ix)The claimant can operate the saving bank account from the nearest branch of UCO Bank and on the request of the claimant, the bank shall provide the said facility."

(Emphasis supplied)

11. In ***New India Assurance Co. Ltd. v. Ganga Devi***, IV (2010) ACC 28, this Court directed the Claims Tribunals to consider releasing the award amount to the victims in a phased manner. The relevant para of the judgment is reproduced hereunder:-

"15. It was pointed out by the counsel for the claimants that the Claims Tribunals were passing directions for releasing part of the award amount and the remaining amount was kept in fixed deposit for a long period due to which the claimants were unable to meet their exigencies and had to approach the Tribunal again and again for release of the award amount. It was suggested by the counsel for the claimants that a direction be given to the Claims Tribunal to keep the amount in fixed deposit in such a manner that the claimants get the award amount in a phased manner which will take care of their exigencies such as illness, marriage of children, education etc.

16. The Claims Tribunal to consider keeping the award amount in fixed deposit in a phased manner depending upon the financial status and financial needs of the claimants. For example, if a sum of Rs.5,50,000 has been awarded to the claimants, Rs.50,000 may be released immediately and the *remaining amount of Rs.50,000 may be kept in 10 fixed deposits of Rs.50,000 each for a periods of six months, one year, one and a half years, two years and so on till five years or one year, two years, three years and so on till ten years.*

17. If the claimants are school/college going children, the maturity period of the fixed deposit receipts be kept preferably in the month of 'March' every year so that the family is able to meet the annual expenses towards the admission and tuition fee of the children."

12. In the Modified Claims Tribunal Agreed Procedure formulated by this Court in ***Rajesh Tyagi v. Jaibir Singh***, I (2015) ACC 838 (Del.), this Court observed that:-

"***28. Protection of the award amount***

The Claims Tribunal shall, depending upon the financial status and financial need of the claimant(s), release such amount as may be considered necessary and direct the remaining amount to be kept in fixed deposits in phased manner (for example, if a sum of Rs.5,50,000/- has been awarded to the claimants, Rs.50,000/- may be released immediately and the remaining amount of Rs.5,00,000/- may be kept in 10 fixed deposits of Rs.50,000/- each for a periods of six months, one year, one and a half years, two years and so on till five years or one year, two years, three years and so on till ten years). The Claims Tribunal may also consider imposing following conditions with respect to the fixed deposits:-

(i) The interest on the fixed deposits be paid monthly to the Claimant(s).

(ii) The monthly interest be credited automatically in the saving account of the claimant(s).

(iii) Original fixed deposit receipts be retained by the bank in safe custody. However, a passbook of the FDRs be given to the claimant(s) along with the photocopy of the FDR. At the time of maturity, the fixed deposit amount shall be automatically credited in the savings bank account of the Claimant(s).

> (iv) *No cheque book be issued to the claimant(s) without permission of the Court. However, a photo identity card be issued to the claimant(s) and the withdrawal be permitted upon production of the identity card.*
>
> (v) *No loan, advance or withdrawal be allowed on the fixed deposits without permission of the Court.*
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> (vi) *The Bank shall not permit any joint name(s) to be added in the savings bank account or fixed deposit accounts of the victim.*
>
> (vii) *Half yearly statement of account be filed by the Bank in the Tribunal."*

13. Vide award dated 19th March, 2014, the Claims Tribunal had awarded Rs.8,97,650/- to the injured. However, no direction was given to keep any amount in fixed deposit as a result of which 70% amount was released to the injured without any restriction of FDR. The injured is present in Court along with his father. The injured is aged about 22 years and is doing B.A. 1st Year from IGNOU. The father of injured submits that he has spent Rs.7,00,000/- in purchasing a property.

14. It is unfortunate that due to the lapse of the Claims Tribunal in not keeping any amount in the fixed deposit, Rs.7 lakh has not been utilised for the welfare of the injured. This Court is of the view that the compensation awarded to the injured was meant to be used only for the welfare of the injured and was not meant for purchasing the property by his father.

15. Copy of this judgment be sent to the presiding officer of the Claims Tribunal through District Judge concerned. Copy of this judgment be circulated to all the Motor Accident Claims Tribunals.

16. Copy of this judgment be given *dasti* to learned counsels for the parties under signature of Court Master.

J.R. MIDHA, J.

AUGUST 31, 2016ak/rsk