THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION NOS. 1996, 1997 & 2044 OF 2017

COMMON ORDER:

1) All the Civil Revision Petitions came to be filed against the order dated 01.12.2016 passed in I.A.Nos.670, 671 and 672 of 2016 in M.V.O.P.No.542 of 2008, wherein the applications filed by the claimants to permit them to withdraw the balance compensation amount which was deposited into the Court was rejected.

2) The petitioners herein are mother, daughter and wife of the deceased. They along with minor son of the deceased filed M.V.O.P.No.540 of 2008 claiming compensation of Rs.20,00,000/- with interest. The said O.P. was decreed awarding compensation of Rs.20,00,000/- to all the petitioners in the said O.P. with interest @ 7.5% per annum. The respondents 1 and 2 therein were directed to deposit the compensation amount within three months from the date of the award. On such deposit, petitioners herein are permitted to withdraw Rs.2,50,000/- each together with interest on the said amount and the remaining amount of Rs.2,50,000/- each was ordered to be kept in fixed deposit in any Nationalised Bank for a period of three years.

3) Thereafter, in the year 2016 the present applications came to be filed for withdrawal of the amount on the ground that to meet the marriage expenses of D.Aparna, who is the petitioner in I.A.No.671 of 2016 and daughter of petitioner in I.A.No.670 of 2016 and for the medical expenses of the petitioner in I.A.No.672 of 2016. All the applications came to be dismissed on the ground that an appeal came to be filed before the High Court which is pending. Apart from that the Court also relied upon the guidelines laid down by the Apex Court for keeping the amount in fixed deposit.

4) The learned counsel for the petitioners would submit that the said appeal was filed by the claimants seeking enhancement of the compensation and as such retaining the amount on the ground that the appeal is pending is improper. It is urged that even the respondent insurance company made an endorsement that no counter is necessary, meaning thereby that they have no objection for releasing the amount. A reading of the endorsement would indicate that no appeal has been preferred by the insurance company and that no counter is necessary in the said applications. One of the conditions of the decree being that the balance amount of Rs.2,50,000/- shall be kept in a fixed deposit, in any Nationalised Bank, for a period of three years which expires

on 15.07.2017. The Apex Court in General Manager, Kerala S.R.T.C vs Susamma Thomas[1] observed as under:

> "(viii) In all cases Tribunal should grant to the claimants liberty to apply for withdrawal 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."

5) Having regard to the judgment of the Apex Court referred to above and as the averments in the affidavit filed in support of the I.A. are not disputed by the respondent-insurance company by way of filing counter; and since the urgency for release of the money is to meet the marriage expenses of the daughter of the deceased and medical expenses of the old aged mother of the deceased which fall within the guidelines laid down by the Apex Court referred to above, the request of the petitioners can be considered though the period of three years referred to in the decree expires on 14.07.2017.

6) Hence, the trial Court is directed to release the said amount subject to verification, the procedure established under law, and if there are no orders granting stay of the release of the deposits.

o[1] (1994) SCC (2) 176

7) With the above direction, all the Civil Revision Petitions are allowed. There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending shall stand closed.

JUSTICE C. PRAVEEN KUMAR

21.04.2017
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