

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION NO.3123 of 2017

ORDER:

1) The Civil Revision Petition came to be filed against the order dated 16.12.2016 passed in I.A.No.1158 of 2016 in O.P.No.47 of 2013, wherein the application filed by the petitioner to permit her to receive the balance compensation amount which was deposited into the Court by way of fixed deposit was rejected.

2) The petitioner is the wife of the deceased. The mother of the deceased filed M.V.O.P.No.47 of 2013 claiming compensation of Rs.10,00,000/- with interest by showing the petitioner, who is the wife of the deceased, as respondent No.3. The said O.P. was decreed awarding compensation of Rs.10,00,000/- 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. Out of the said compensation the petitioner in O.P.No.47 of 2013 is entitled to a sum of RS.4,00,000/- with interest and the petitioner herein is entitled to a sum of Rs.6,00,000/- with interest and proportionate costs. On such deposit, the petitioner was permitted to withdraw Rs.2,00,000/- along with proportionate costs and interest and the remaining amount of Rs.4,00,000/- was ordered to be kept in fixed deposit in any Nationalised Bank for a period of three years. Thereafter, in the year 2016 the present application came to be filed for withdrawal of the amount stating that after the death of her

husband, she has been taking shelter at her parents house at Kadapa and during the pendency of the case, her father died. Since then she has been leading a miserable life and the awarded amount is necessary to meet the marriage expenses. The trial Court dismissed the application without assigning any proper reasons.

3) The learned counsel for the respondents would submit that the mother of the deceased filed an appeal before this Court and the same is pending consideration.

4) The learned counsel for the petitioner would submit that the said appeal was filed by the claimants seeking enhancement of the compensation and as such retaining the awarded amount on the ground that the appeal is pending would be improper. It is to be noted that no appeal has been preferred by the insurance company and that no counter is filed in the said application. One of the conditions of the decree being that the balance amount of Rs.4,00,000/- shall be kept in a fixed deposit, in any Nationalised Bank, for a period of three years.

18. In [Halki Bai v. New India Assurance Co., Ltd.](#)¹, a Division Bench of the Madhya Pradesh High Court held that a widow is entitled to receive compensation for the death of her husband even after her remarriage, but not a larger share.

¹ 1999 ACJ 187

19. In *Manthani Kittamma v. Tippareddy Veera Reddy*², a learned Single Judge of this Court held that a widow getting remarried is not a bar to grant compensation to which she is otherwise legally entitled and the widow's entitlement cannot be denied on the ground that there is likelihood of her remarriage.

5) The Apex Court in *General Manager, Kerala S.R.T.C vs Susamma Thomas*³ 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.”

6) Having regard to the judgment 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, which fall within the guidelines laid down by the Apex Court referred to above, the request of the petitioner can be considered subject to filing of proof of marriage.

7) Hence, the trial Court is directed to release the said amount subject to filing of proof of marriage and its verification. Further, the amount shall be released, provided there are no orders granting stay of the release of the deposits by any Court.

² 2010 ACJ 2030

³ (1994) SCC (2) 176

8) With the above direction, the Civil Revision Petition is disposed of. There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending shall stand closed.

JUSTICE C. PRAVEEN KUMAR

09.08.2017
gkv



