

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**C.R. No.80 of 2018**

Smt. Jaimuni W/o Late Maten Porte Aged About 40 Years Occupation
House Wife R/o Village Parwatipur (Khaspara) Post Umeshwarpur, P. S.
And Tahsil Premnagar Distt. Surajpur Chhattisgarh ---- **Applicant**

Versus

1. Shivcharan Singh S/o Dalsaigond Aged About 32 Years R/o Bharatpur,
P. S. And Tahsil Lakhanpur Distt. Surguja Chhattisgarh (Driver),
2. Sobhanath Kariyam S/o Premsai Kariyam Aged About 45 Years R/o
Village Nimaha (Tikarpara) Post Udaipur, P. S. And Tahsil Udaipur Distt.
Surguja Chhattisgarh (Owner)
3. Branch Manager Magma H. D. I. General Insurance Company Ltd.
Branch Office Kriti Complex Rajendra Nagar Park Link Road Bilaspur
Chhattisgarh Through Magma Finance Company Ltd. Near Ambedkar
Chowk Nagar, Ambikapur Distt. Surguja Chhattisgarh (Insurer),
4. Ku. Anita D/o Late Maten Porte Aged About 16 Years Occupation
Student Minor Through Natural Guardian Smt. Jaimuni W/o Late Maten
Porte (Petitioner) R/o Village Parwatipur (Khaspara) Post
Umeshwarpur P. S. And Tahsil Premnagar Distt. Surajpur Chhattisgarh
(Claimant)
5. Rambharos S/o Late Maten Porte Aged About 14 Years Occupation
Student Minor Through Natural Guardian Smt. Jaimuni W/o Late Maten
Porte (Petitioner) R/o Village Parwatipur (Khaspara) Post
Umeshwarpur P. S. And Tahsil Premnagar Distt. Surajpur Chhattisgarh
(Claimant)
6. Kameshwar S/o Late Maten Porte Aged About 11 Years Occupation
Student Minor Through Natural Guardian Smt. Jaimuni W/o Late Maten
Porte (Petitioner) R/o Village Parwatipur (Khaspara) Post
Umeshwarpur P. S. And Tahsil Premnagar Distt. Surajpur Chhattisgarh
(Claimant)
7. Ku. Rita D/o Late Maten Porte Aged About 5 Years Occupation Nil,
Minor Through Natural Guardian Smt. Jaimuni W/o Late Maten Porte
(Petitioner) R/o Village Parwatipur (Khaspara) Post Umeshwarpur P. S.
And Tahsil Premnagar Distt. Surajpur Chhattisgarh (Claimant),

-----Non-Applicants

For Applicant: Shri AN. Pandey, Advocates.
For Respondent No.2/State: Shri Aditya Sharma, Panel Lawyer.

Single Bench: Hon'ble Shri Sanjay Agrawal, J
Order On Board

14.08.2018

1. Heard on admission.

2. This Revision has been preferred under Section 115 of Code of Civil Procedure, 1908 (for short 'the CPC') against the order dated 11.05.2018 passed by Motor Accident Claims Tribunal, Ambikapur, District Surguja (CG) (for short 'the Claims Tribunal') by which, the Claims Tribunal has rejected the application filed by the Applicant for withdrawal of a sum of Rs.1 lac deposited in the Nationalized Bank i.e. United Bank of India in Fixed Term Deposit Receipt dated 06.10.2017.

3. Shri Pandey, learned Counsel for the Applicant submits that the Court below has committed an illegality in not taking the material fact as mentioned in the application for withdrawal of the said amount from the said Fixed Deposit amount. According to Shri Pandey, a Claim Petition was made by the Applicant and her children on account of death of her husband namely Maten Porte. The said Claim Petition was registered as Claims Case No.193/2016 and vide award dated 31.08.2017, a sum of Rs.8,87,100/- with interest at the rate of 7% per annum has been awarded. It is submitted further that being aggrieved by the said award, an Appeal was preferred by the Non-Applicant No.3-/Magma H.D.I. General Insurance Company Limited through Magma Finance Company Limited which was registered as M.A(C) No.788 of 2017. After admitting the said Appeal, this Court, vide order dated 29.06.2017, has directed the Insurance Company for depositing 50% of the total awarded amount before the concerned Claims Tribunal and directed further that the amount so deposited by the Insurance Company shall be disbursed to the Claimants after obtaining from them a solvent security of the like sum to the satisfaction of the Tribunal. In pursuance to the said direction, the Insurance Company has deposited a sum of Rs.4,80,187/-. Out of the

said amount, a sum of Rs.50,000/- was paid in cash to the Applicant and a sum of Rs.2,30,187/- has been directed to be deposited in her name in the United Bank of India and it was accordingly deposited in TDR No.1554100053109. An application for obtaining a sum of Rs.1 lac from the said Fixed Deposit amount was made on 26.04.2018 in which, it is alleged that the Applicant has obtained a sum of Rs.11,960/- as loan amount from '*Adim Jati Seva Sahkari Maryadit Umeshwarpur*' and because of her poor financial condition, she was unable to repay the said loan amount and therefore, she may be permitted for withdrawal of a sum of Rs.1 lac from the said TDR amount.

4. After considering the said application, the same was rejected by the Court below by observing that the Applicant has not mentioned in her application as to what is the emergent circumstance for which the said amount is required to be withdrawn from the said TDR amount.

5. Being aggrieved, the instant Revision has been filed.

6. I have heard learned Counsel for the Applicant and perused the entire relevant papers annexed with this Revision carefully.

7. Having considered the facts and circumstances of the case and that by considering the contention as made in the application coupled with the evidence adduced by the Applicant in this regard and particularly with regard to the fact that the Applicant has failed to repay the said loan amount as obtained by her, I am inclined to permit her to obtain a sum of Rs.50,000/- (Rupees Fifty Thousand only) from the said TDR amount, out of the amount sought for.

8. Accordingly, the instant Civil Revision is allowed in part and in addition to the amount of Rs.50,000/- as granted by the Claims Tribunal,

the Applicant is permitted to withdraw a further sum of Rs.50,000/- (Rs. Fifty Thousand) as deposited in the Nationalized Bank namely United Bank of India in T.D.R Account No.1554100053109. No order as to costs.

Sd/-
(Sanjay Agrawal)
JUDGE

Priya