BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2018

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P(MD)Nos.620 and 621 of 2018 (NPD)

S.Manoharan ...Petitioner in C.R.P(MD)No.620 of 2018/ Petitioner/Petitioner

K.Rasalammal ...Petitioner in C.R.P(MD)No.621 of 2018/ Petitioner/Petitioner

Vs.

ICICI Lombard General Insurance Company Ltd.,
Rep. by its Branch Manager,
1st Floor Layola Technical Institute,
No.7, Arignar Anna Road,
Gnanaolivapuram
Madurai - 16. ...Respondent in both petition /Respondent/ 3rd Respondent

COMMON PRAYER: Civil Revision Petitions filed under Section 227 of Constitution of India, to set aside the docket order dated 09.09.2016 made in I.A.Nos.303 and 304 of 2016 in MCOP.No.110 of 2013 on the file of the (Motor Accident Claims Tribunal) learned Chief Judicial Magistrate, Nagercoil and allow these Civil Revision Petitions.

In both petitions
For Petitioners : Mr.N.Sudhagar Nagaraj
For Respondent : Mr.K.K.Ramakrishnan

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COMMON ORDER

These Civil Revision Petitions have been filed challenging the docket order dated 09.09.2016, made in I.A.Nos.303 and 304 of 2016 in MCOP.No.110 of 2013, on the file of the (Motor Accident Claims Tribunal) learned Chief Judicial Magistrate, Nagercoil.

2. The petitioners have filed their respective Interlocutory Applications seeking to relax the condition imposed in the award dated 13.07.2015. Perusal of records shows that the Tribunal has awarded a sum of Rs.36,35,818/- to the petitioners in MCOP No.110 of 2013. Out of the award amount, the petitioner in

CRP(MD) No.620 of 2018 Mr.Manoharan has withdrawn a sum of Rs.9,87,781/- and the petitioner in CRP(MD) No.621 of 2018 Mrs.K.Rasalammal has withdrawn a sum of Rs.9,87,780/- and the remaining balance of Rs.7,00,000/- each to the petitioners have been invested in a Nationalised Bank.

3. The petitioners have come forward with the above Interlocutory Applications stating that they intended to start a poultry farm and they are in requirements of the said amount. The learned Counsel for the petitioners would submit that the petitioner in CRP(MD) No.620 of 2018 has studied upto 8th standard and therefore, he has not able to go anywhere for job. Therefore, he wanted to start a business, for which, he require the said money. Perusal of proof affidavit shows that the petitioners have been residing in a rental house and they wanted to start a poultry business. It is also stated that they have intend to purchase a house, for which also they require money and therefore, they seeking to relax the condition imposed in the award. The Trial Court has dismissed the applications, aggrieved by which, these civil revision petitions have been filed by the petitioners.

4. Heard the learned Counsel on either side and perused the materials available on record.

5. The petitioners are directed to appear before this Court and the petitioners reiterated the statements made in the petitions. Perusal of records shows that the accident took place in the year 2011 and the award has been passed in the year 2015 and the award amount was deposited on 23.02.2016.

6. The Hon'ble Supreme Court of India in the judgment reported in 2012 ACJ 698 - in the case of A.V.Padma and others Vs. R.Venugopal and others, in paragraph No.4, it is held as follows :

> 4. In the case of Susamma Thomas (supra), this Court issued certain guidelines in order to "safeguard the feed from being frittered away by the beneficiaries due to ignorance, illiteracy and susceptibility to exploitation". Even as per the guidelines issued by this Court Court, long term fixed deposit of amount of compensation is mandatory only in the case of minors, illiterate claimants and widows. In the case of illiterate claimants, the Tribunal is allowed to consider the request for lumpsum payment for effecting purchase of any movable property such as agricultural implements, rickshaws etc. to earn a living. However, in such cases, the Tribunal shall make sure that the amount is actually spent for the purpose and the demand is not a ruse to withdraw money. In the case of semi-illiterate claimants, the Tribunal should ordinarily invest the amount of

compensation in long term fixed deposit. But if the Tribunal is satisfied for reasons to be stated in writing that the whole or part of the amount is required for expanding an existing business or for purchasing some property for earning a livelihood, the Tribunal can release the whole or part of the amount of compensation to the claimant provided the Tribunal will ensure that the amount is invested for the purpose for which it is demanded and paid. In the case of literate persons, it is not mandatory to invest the amount of compensation in long term fixed deposit. The expression used in guideline No. (iv) issued by this Court is that in the case of literate persons also the Tribunal may resort to the procedure indicated in guideline No. (i), whereas in the guideline Nos. (i), (ii), (iii) and (v), the expression used is that the Tribunal should. Moreover, in the case of literate persons, the Tribunal may resort to the procedure indicated in guideline No. (i) only if, having regard to the age, fiscal background and strata of the society to which the claimant belongs and such other considerations, the Tribunal thinks that in the larger interest of the claimant and with a view to ensure the safety of the compensation awarded, it is necessary to invest the amount of compensation in long term fixed deposit.

7. From the reading of the above judgment, it is seen that the above guidelines were issued by this Court to safeguard the interests of the claimants, particularly the minors, illiterates, widows and others whose amounts are sought to be withdrawn on some fictitious grounds. The guidelines were not to be understood to mean that the Tribunals were to take a rigid stand while considering an application seeking release of money. The guidelines cast a responsibility on the Tribunals to pass appropriate orders after examining each case on its own merits.

8. The petitioners are sound enough to know the nature of the claims which has been claimed by them and genuinely they are in requirements of money and they are aged about 58 and 53 years respectively. In the present case, the parties were present before this Court and it is seen that there is no possibility or chance of the feed being frittered away by the beneficiaries owing to ignorance, illiteracy and susceptibility to exploitation, investment of the amount of compensation in long term fixed deposit is directed by the Tribunals as a matter of court and in a routine manner, ignoring the object and spirit of the guidelines issued by this Court and the genuine requirements of the claimants. While rejecting the application of the petitioners,

Tribunal did not consider any of the above mentioned aspects.

9. Considering the facts and circumstances of the case and in view of the dictum laid down in the above judgment, the docket order passed by the learned Trial Judge is set aside and the Tribunal is directed to release the amount invested in fixed deposit, without any further delay, on proper application filed by them.

10. With the above terms, these Civil Revision Petitions are allowed. No costs.

Sd/
Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To
The Chief Judicial Magistrate,
Nagercoil

Copy to:
The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.(2 COPIES)

+1cc to Mr.K.K.Ramakrishnan, Advocate, SR.No.58849

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28.03.2018

RM
KK/SV MMS/09.05.2018/SAR-2/4P-5C