

HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

CIVIL REVISION PETITION No.2140 OF 2010

ORDER:

This revision is filed against the order dated 27.01.2010 passed in I.A.No.7038 of 2009 in M.V.O.P.No.1261 of 2004 on the file of the Motor Vehicles Accident Claims Tribunal (Principal District Judge), Guntur.

The impugned order was passed in an application filed under Section 151 of CPC for apportionment of compensation amount amongst petitioners 2, 3 and 4, who are the wife and children of one S.Sai Prasad (petitioner No.1), who died in a motor accident.

A reading of the order shows that the compensation amount was deposited pursuant to an award passed in M.V.O.P.No.1261 of 2004. It is also evident from the record that petitioners 2, 3 and 4 were brought on record as the legal representatives of the deceased/1st petitioner and they are claiming the amount deposited.

When the said application was heard, the lower Court in view of the judgment reported in **G.Shiva Kumari v. Md.Nasim and others**¹ held that a succession certificate was necessary for withdrawal of the amount by the heirs of the deceased. This order is now challenged.

Heard learned counsel for the petitioners.

It is the submitted by the learned counsel for the petitioners that the lower Court ignored the judgment of the Apex Court in **Smt.Rukhsana v. Smt.Nazrunnisa**² and also the judgment of the

¹ 1992(3) ALT 458

² 2000(9) SCC 240

learned Single Judge of this Court reported in ***Chitrapu Chinabapanaiah and others v. Union of India***³.

In ***G.Shiva Kumari***'s case (1 supra), the facts revealed that the interlocutory applications were filed for permission to come on record as the legal heirs of the deceased and for issuance of a cheque and at that point of time, the Court held that a succession certificate was necessary because it was not sure as who are the actual legal heirs of the deceased. Therefore, the Court held that if a succession certificate is obtained, then the enquiry about legal heirs can be dispensed with.

On the other hand, it was pointed out that in ***Rukhsana's*** case (2 supra), the Hon'ble Supreme Court clearly held that deposit of compensation amount is not a 'debt' or a 'security' requiring a succession certificate for the disbursement of the amount. The Supreme Court clearly held that the amount deposited as compensation for the death of a deceased is an amount which the legal representatives of the deceased can claim. This judgment was followed by the learned Single Judge of this Court in ***Chitrapu Chinabapanaiah's*** case (3 supra). Here, the learned Single Judge considered the judgment of the Supreme Court reported in ***Rukhsana's*** case (4 supra) and also clearly held that a succession certificate is issueable only in case of debt or security payable to the deceased or injured. The amount deposited as compensation is neither debt nor a security. Learned Single Judge also noted that appellants 2 and 3 are the class-I heirs and that even if there existed any claims of third parties, in relation to that amount, the payment to the legal heirs

³ 2004(4) ALT 269

shall be subject to such claims. Learned Single Judge also held that the rights of the appellants 2 and 3 cannot be defeated or delayed in anticipation of any claim by third parties.

This Court is of the opinion that in view of the authoritative pronouncement of the Supreme Court of India in **Rukhsana's** case (2 supra) as was followed by **Chitrapu Chinabapanaiah's** case (3 supra), the lower Court was wrong in insisting upon a succession certificate from the legal representatives, who were already on record as petitioners 2 to 4. Therefore, this Court is of the opinion that the impugned order is not correct and it deserves to be set aside.

In the result, the Civil Revision Petition is allowed and the impugned order dated 27.01.2010 passed in I.A.No.7038 of 2009 in M.V.O.P.No.1261 of 2004 is set aside. The lower Court is directed to proceed further with regard to apportionment of the amounts as per law. No costs.

The Miscellaneous Petitions, if any, pending shall stand closed.

D.V.S.S.SOMAYAJULU, J

Date : 06.02.2018
ssp