

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO No. 2301 of 2016
Date of decision: 31.08.2018

Kulwant Singh and another

....Petitioner(s)

Versus

Union of India

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Deepak Gupta, Advocate,
for the appellants.

Mr. Karminder Singh, Advocate,
for the respondent.

G.S.SANDHAWALIA, J. (Oral)

The present appeal filed under Section 23 of the Railway Claims Tribunal Act, 1987 is directed against the award of the Railway Claims Tribunal dated 17.03.2016 only to the extent that sum of Rs.4,00,000/- which has been awarded on the death of Sukhwinder Singh alongwith interest at 6% per annum has been locked up in Fixed Deposit Receipts for a period of 3 years with liberty to approach the Tribunal for release of the remaining amount on the ground that the appellants are rustic and illiterate persons and having village background.

The appellants are the parents of the deceased and were aged 61 and 64 years at the time of filing of the claim petition on 01.07.2013. The Apex Court, in similar circumstances in *A.V. Padma and others vs. R. Venugopal and others, 2012 (1) SCR 437* while taking into consideration the earlier judgment of the Apex Court in *General Manager, Kerala State Road Transport Corporation, Trivandrum vs. Mrs. Susamma Thomas, AIR 1994 SC 1631* held that the age and fiscal background of the parties is to be taken into consideration and the Tribunals are passing orders in mechanical manner which would lead to serious prejudice and economic ruin of the appellant-claimants. Resultantly, the entire amount of compensation was allowed to be withdrawn by the appellant, who was 71

years in that case and had required the money. The relevant observations read thus:-

5. Thus, sufficient discretion has been given to the Tribunal not to insist on investment of the compensation amount in long term fixed deposit and to release even the whole amount in the case of literate persons. However, the Tribunals are often taking a very rigid stand and are mechanically ordering in almost all cases that the amount of compensation shall be invested in long term fixed deposit. They are taking such a rigid and mechanical approach without understanding and appreciating the distinction drawn by this Court in the case of minors, illiterate claimants and widows and in the case of semi-literate and literate persons. It needs to be clarified that the above guidelines were issued by this Court only to safeguard the interests of the claimants, particularly the minors, illiterates 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 the money. The guidelines cast a responsibility on the Tribunals to pass appropriate orders after examining each case on its own merits. However, it is seen that even in cases when there is no possibility or chance of the feed being frittered away by the beneficiary owing to ignorance, illiteracy or susceptibility to exploitation, investment of the amount of compensation in long term fixed deposit is directed by the Tribunals as a matter of course and in a routine manner, ignoring the object and the spirit of the guidelines issued by this Court and the genuine requirements of the claimants. Even in the case of literate persons, the Tribunals are automatically

ordering investment of the amount of compensation in long term fixed deposit without recording that having regard to the age or fiscal background or the strata of the society to which the claimant belongs or such other considerations, the Tribunal thinks it necessary to direct such investment in the larger interests of the claimant and with a view to ensure the safety of the compensation awarded to him. The Tribunals very often dispose of the claimant's application for withdrawal of the amount of compensation in a mechanical manner and without proper application of mind. This has resulted in serious injustice and hardship to the claimants. The Tribunals appear to think that in view of the guidelines issued by this Court, in every case the amount of compensation should be invested in long term fixed deposit and under no circumstances the Tribunal can release the entire amount of compensation to the claimant even if it is required by him. Hence a change of attitude and approach on the part of the Tribunals is necessary in the interest of justice.

6. In this case, the victim of the accident died on 21.7.1993. The award was passed by the Tribunal on 15.2.2002. The amount of compensation was enhanced by the High Court on 6.7.2006. Neither the Tribunal in its award nor the High Court in its order enhancing compensation had directed to invest the amount of compensation in long term fixed deposit. The Insurance Company deposited the compensation amount in the Tribunal on 7.1.2008. In the application filed by the appellants on 19.6.2008 seeking withdrawal of the amount without insisting on investment of any portion of the amount in long term deposit, it was specifically stated that the first appellant is an educated lady who retired as a Superintendent of the Karnataka Road

Transport Corporation, Bangalore. It was also stated that the second appellant Poornachandrika is a M.Sc. degree holder and the third appellant Shalini was holding Master Degree both in Commerce and in Philosophy. It was stated that they were well versed in managing their lives and finances. The first appellant was already aged 71 years and her health was not very good. She required money for maintenance and also to put up construction on the existing house to provide dwelling house for her second daughter who was a co-owner along with her. The second daughter was stated to be residing in a rented house paying exorbitant rent which she could not afford in view of the spiralling costs. It was further stated in the application that the first appellant was obliged to provide a shelter to the first daughter Poornachandrika. It was pointed out that if the money was locked up in a nationalised bank, only the bank would be benefited by the deposit as they give a paltry interest which could not be equated to the costs of materials which were ever increasing. It was further stated that the delay in payment of compensation amount exposed the appellants to serious prejudice and economic ruin. Along with the application, the second and third appellants had filed separate affidavits supporting the prayer in the application and stating that they had no objection to the amount being paid to the first appellant.”

In the present appeal also, it has been averred that the deceased was a farmer and the only bread earner and the family members are unable to maintain themselves and are facing hardship and need money for their betterment.

Keeping in view the above facts and circumstances and the fact that the appellants are the parents of the deceased and are mature persons as such, they are entitled for the amount of compensation in lumpsum rather

than locking it up in the Fixed Deposit Receipt for a period of 3 years.

Accordingly, the appeal is allowed. The Tribunal is directed to release the amount to the appellants by transferring the same in their bank accounts in case not already released.

31.08.2018
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No