IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 2565 of 2017
Date of decision: 03.10.2018

Anita and others ....Appellant(s)

Versus

Union of India ...Respondent(s)

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

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

Mr. S.K. Rana, Advocate,
for Mr. Amit Kumar, Advocate,
for the respondent.

G.S.SANDHAWALIA, J. (Oral)

The appellants are aggrieved against the directions of the Railway Claims Tribunal, Chandigarh Bench to the extent that the amount awarded of Rs.8,00,000/- has been locked up in fixed deposit receipts in spite of allowing the claim petition. The claimants are the wife of the deceased Tekchand who was working as a Commission Agent in the Grain Market. Rs. 3,50,000/- was given to the wife and Rs.1,50,000/- each was given to the sons of the deceased and the daughter. The amount to the dependants was, thus, to be paid only to the extent of 15% of the compensation amount and the rest of the entire amount was to be put in FDRs for a period of 3 years. After one year, 1/3rd of the amount was to be released to the applicant-awardees and 1/3rd amount was to be released in the second year and in the third year.

In ***General Manager, Kerala State Road Transport Corporation, Trivandrum vs. Mrs. Susamma Thomas, AIR 1994 SC 1631*** the Apex Court had issued directions that the Claims Tribunal is to put the amount in fixed deposit so that the minors or illiterate persons could not be exploited.

In ***A.V. Padma and others vs. R. Venugopal and others, 2012 (1) SCR 437,*** the factum of the said judgment was diluted by holding that 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 Resultantly, the entire amount of compensation was allowed to be withdrawn by the appellant, who was 71 years in that case and had required the money.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 ***FAO No. 1262 of 2012, Rameshwar Lal and others vs. Union of India,*** reliance was placed upon the judgment of the Apex Court in ***H.S. Ahammed Hussain vs. Irfan Ahammed, 2002 (3) RCR (Civil) 563*** and decision of this Court in ***Asraf vs. Motor Accidents Claims Tribunal, Gurgaon, 2007 (4) RCR (Civil) 301*** to hold that the directions of the Tribunal were creating a flood of litigation. The relevant portion reads thus:-

> "*However, this Court is flooded with such type of appeals where only prayer is for release of amount awarded to an adult, which is ordered by the Tribunal to be deposited in a fixed deposit in a Nationalized Bank for a fixed term. This Court is constrained to observe that despite the fact that the Supreme Court, in the case of H.S.Ahammed (Supra), has authoritatively held that in case of an adult, it is not proper to order the amount of compensation to be deposited in fixed deposit and the law laid down by the Supreme Court is to be followed by the Courts and Tribunal all over India in view of Article 141 of the constitution of India but the Tribunal apears to be adament in passing the same order time and again breeding unnecessary litigation, causing heavy financial loss to the poor litigants, an extra avoidable burden on this Court and wasting time of this Court in doing so despite a long queue of citizens waiting for justice. In this process, their queue will become longer and their misery shall multiply without any compensating benefit to the cause of justice. Therefore, while allowing these appeals, the Tribunal is directed to release the amount to the major/adults forthwith which has been ordered to be deposited in fixed deposit. The Tribunal is further advised not to pass such orders which is offending the orders passed*

by the Supreme Court as well as by this Court lest it is considered otherwise.

With the aforesaid directions, these appeals are disposed of.

A copy of this order be sent to the Railway Tribunal, Chandigarh Bench,Chandigarh."

In spite of that, it is to be noticed that the Tribunal continues to pass such orders without taking into consideration the principles laid down in *Mrs. Susamma Thomas and A.V. Padma' cases (supra)***.**

In the present case, as noticed, it is to be noticed that the wife of the deceased was aged about 47 years and similarly, appellant nos. 2 and 3 were also 22 and 19 years at the time of filing of the claim petition in 2013. In such circumstances, the order of locking up the compensation in installments of 15% is not appreciable in any manner vide impugned order dated 08.03.2017. Resultantly, the appeal is allowed to that extent that the balance amount shall also be released in the cases of three appellants alongwith interest by way of RTGS transfer in their bank accounts.

However, it is clarified that in the case of Vanishka, who was only 9 years of age, the amount of Rs.1,50,000/- will remain in FDR till she attains the age of majority. However, the interest element can be used by appellant no. 1 for the purposes of her upbringing.

The appeal stands partly allowed to that extent.

03.10.2018 (G.S. SANDHAWALIA)
shivani JUDGE

Whether reasoned/speaking Yes/No

Whether reportable Yes/No