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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 29.05.2018

+ CM(M) 1347/2017 & C.M. Nos.43154-155/2017

SHARDA DEVI

..... Petitioner

Through Mr.Pranay Kumar with Mr.Piyush
Prabhakar & Mr.S.N.Thakur, Advs.

Versus

SACHIN PRATAP SINGH & ORS

..... Respondent

Through Mr.Surjan Singh, Adv for R-3.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. Vide the present petition, the Petitioner has impugned the order dated 19.08.2017 passed by the Motor Accidents Claim Tribunal, Rohini Courts, Delhi (hereinafter referred to as the "MACT") in MAC No. 4658/17 rejecting her application for pre-mature release of the amount lying in FDRs in her name in accordance with the MACT's Award dated 09.09.2016.

2. The brief facts as emerge from the record are that after her husband had met with a fatal accident on 11.04.2014, the petitioner filed MAC No. 110/2015, which matter was settled by the Lok-Adalat on 13.08.2016. Subsequently, the MACT vide its award dated 09.09.2016, decreed the settlement for a total sum of Rs. 13,00,000/- which included an interim award of Rs. 50,000/-, as per which the Petitioner agreed to settle the case for a sum of Rs. 12,50,000/- after adjudicating the aforesaid interim award already released to her. Thus, the MACT directed the Insurance Company to pay a sum of Rs. 7,50,000/- to the Petitioner at the time of passing of the

award, whereas the remaining amount of Rs. 5,00,000/- was directed to kept in the form of FDRs for a period of two years.

3. It has been averred in the petition that the Petitioner, in order to purchase a residential property in her name, entered into a '*Bayana*' Agreement dated 23.06.2017 for a sum of Rs.7,00,000/-. It transpires that the Petitioner had already paid Rs. 50,000 at the time of entering into the Agreement and had to pay the balance amount of Rs. 6,50,000/- on or before 15.10.2017. As the Petitioner was unable to raise sufficient funds, even after fully utilising her savings, she moved an application in MAC No. 110/2015 before the MACT seeking pre-mature release of the sum of Rs. 5,00,000/- lying in FDR in her name, which is to mature on 16.09.2018.

4. The MACT, however, dismissed the Petitioner's application on 19.08.2017 by holding that no ground was made out for pre-mature release of the FDR. The MACT observed therein that the purchase of a house, even otherwise, on the basis of an unstamped Bayana Agreement, and that too for purchasing a '*jhuggi*', would not substantiate the Petitioner's case. It is in these circumstances that the Petitioner has preferred the present petition.

5. Learned counsel for the Petitioner submits that the MACT, while passing the Impugned Order, has ignored the economical background of the Petitioner. He submits that the Petitioner, being desirous of having a residential accommodation in her name, had entered into a '*Bayana*' Agreement on 23.06.2017, since she is an uneducated widow and is finding it very difficult to pay monthly rent.

6. Learned counsel for the Petitioner submits that it was only after the Petitioner realized that she was unable to pay the balance amount for purchasing the said property, even after completely utilising her savings, that she approached the MACT for pre-mature release of the amount lying in the

said FDR in her name, in order to be able to pay the entire consideration amount for purchasing the said property.

7. Having heard the learned counsels for the parties, I find that what emerges from the record is that the Petitioner, an uneducated widow, had been living in a rented accommodation. Upon finding it difficult to pay monthly rental charges, she entered into an informal '*Bayana*' agreement to purchase a small plot from one Ms. Suman at Prem Nagar, Delhi. Since the Petitioner was unable to pay the entire consideration amount for purchasing the aforesaid property, even after fully utilizing her savings, she approached the Tribunal for pre-mature release of the FDRs of Rs. 5,00,000/-, which was to otherwise mature on 16.09.2018.

8. Vide the Impugned Order, the Tribunal has dismissed the Petitioner's application by holding that the purchase of house on the basis of an unstamped document and that too a '*jhuggi*', would not substantiate her case.

9. Having considered the application and the agreement relied upon by the Petitioner as also the fact that the FDR was in any event maturing on 16.09.2018, I am of the considered view that the Tribunal has dismissed the Petitioner's application in a mechanical manner and without due application of mind. The Tribunal has overlooked the economic strata to which the Petitioner belongs and the conditions in which she is living. In my view, the Tribunal ought to have appreciated that in cases seeking pre-mature release of the amount deposited, it is expected to consider the welfare of the claimant, who is a legal heir of the deceased and not act in a hyper-technical manner.

10. At this stage it may be appropriate to refer to the decision of the Supreme Court in *A.V. Padma & Ors. v. R. Venugopal and Ors.* [(2012) 3

SCC 378], wherein the Court, while examining the plea seeking disbursal of the amount without insisting on the deposit of any portion thereof with any nationalised bank, had after observing that the Tribunals were mechanically rejecting the claimant's applications for withdrawal of the compensation amount without proper application of mind had opined that a change of attitude was required while dealing with such matters. It may be relevant to refer to Para 8, 9 and 10 of decision, which read as under:-

"8. 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.

9. 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.

10. 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."

11. In the facts of the present case, I am of the considered opinion that the Petitioner's request for premature release of the FDRs cannot at all be said to be unjustified. In fact, this Court has been constrained to repeatedly observe that, while dealing with such applications, the Tribunal should look into the matter sympathetically and keep in mind that the only factor which is relevant for pre-mature release of the amount, is the welfare of the legal heirs of the deceased.

12. For all the aforesaid reasons, the petition is allowed and the Impugned Order dated 19.08.2017 passed by the MACT is quashed. Accordingly, the Union Bank of India, Najafgarh Branch, Delhi is directed to release the amount of Rs. 5,00,000/- lying in FDRs in the Petitioner's name in her Account No. 697503060000028.

13. The petition along with pending applications is disposed of in the above terms.

REKHA PALLI, J

MAY 29, 2018/neelam

