$~174

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

\+ CM(M) 163/2019

CHAITANYA KUMAR BHARDWAJ ..... Petitioner

Through: Mr. Lokesh Kumar Mishra, Advocate.

versus

UCO BANK ..... Respondent

Through: Mr. Sarfaraz Khan, Advocate.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

O R D E R

% **21.02.2019**

In terms of proceedings dated 20.02.2019, the petitioner has placed on record the copy of the award dated 08.07.2015 of the learned Presiding Officer, MACT (East), KKD Courts, Delhi in MAC No.3/13 vide which the said petition filed by the petitioner herein had been allowed and compensation of amount of Rs.34,19,342.00/- had been directed to be paid by the respondent nos.1 & 2 arrayed to the said proceedings to the petitioner herein and there were directions *inter alia* also to pay interest at the rate of 9% per annum on the total compensation amount by the insurance company. The mode of disbursement vide the said award was directed as under:-

> ***"32. Out of total award amount, let an amount of Rs.2,19,342/- in favour of the Petitioner be released forthwith and remaining amount shall be deposited in his name in the form of Four FDRs for a period of Ten years with release of periodical monthly interest to him.***

33. The interest on the aforesaid Fixed Deposits shall be paid monthly by Automatic Credit of Interest in the Savings Account of Petitioner.

34. Withdrawal from the said Account shall be permitted to Petitioner after due verification and Bank shall issue Photo Identity Card to Petitioner to facilitate Identity.

35. The original Fixed Deposit Receipts shall be retained by the Bank in safe custody. However, original Passbook shall be given to the Petitioner with photocopy of FDR. On expiry of period of each FDR, the Bank shall automatically credit the maturity amount in Savings Account of beneficiary.

36. No loan, advance, withdrawal shall be allowed on the said FDR without permission of this court.

37. Half yearly statement of account be filed by the Bank in this court.

38. On request of Petitioner, Bank shall transfer the Savings Account to any other branch.

39. The award amount alongwith interest be deposited by Insurance Company, within 30 days in the court. In case, the Insurance Company fails to deposit this compensation with proportionate interest, in that event, in the light of the judgment of the Hon'ble High Court of Delhi in the case of New India Assurance Company Limited Vs. Kashmiri Lal, 2007 ACJ 688, this compensation shall be recovered by attaching the bank account of the Insurance Company with a cost of Rs.10,000/-

File be consigned to record room."

The enhancement that had been sought by the petitioner herein was also granted in MAC APP. No.718/15 & MAC APP. No. 132/2018 by this Court vide a verdict dated 20.03.2018 with it having been further directed to the effect that the compensation granted by the Tribunal was enhanced from Rs.34,19,342/- to Rs.45,85,742/- with interest @ 9% per annum with it having been directed that the mode of disbursement would be the same as indicated in the impugned award and that the insurer was directed to deposit the enhanced compensation with the Tribunal within a period of four weeks with the Tribunal having been directed thereafter to forthwith release the enhanced compensation to the injured and after deposit of enhanced compensation by the Insurer, the statutory deposit was directed to be refunded to Insurer as per rules.

Vide the present petition, the petitioner has assailed the impugned order dated 21.01.2019 of the learned PO MACT (East)/ KKD Courts, Delhi in Suit no.3/13, vide which the petitioner herein before the learned MACT, East had sought the pre-mature release of the FDR on the ground that he was intending to purchase an immovable property in Varanasi. It was also submitted by the petitioner and as has now been submitted on behalf of the petitioner that he is well educated and that he requires the amount in order to purchase the property in Varanasi and that there is no possibility of siphoning of the amount and that the amount may not be released to the petitioner but may directly be released to the sellers of the property and that the petitioner would file the copy of the sale deed on the records of the Tribunal.

The learned PO MACT (East), vide the impugned order observed to the effect that in ***"UPSRTC Vs. Ranjeet Kumar"*** MAC Appeal no.472/2014 decided on 31st August 2016, it had been directed that compensation awarded to the claimant was meant to be used only for welfare of the claimant and it was not meant for purchase of property and that thus, vide the impugned order, it was observed to the effect that the award amount was meant to be utilized in the manner as directed vide the award and could not be released in order to enable the petitioner to purchase immovable property. The application thus, filed by the petitioner seeking pre-mature release of the FDR was dismissed.

It has been submitted on behalf of the petitioner that the petitioner is now employed as a Government Servant working with United India Insurance Co. Ltd. and the original Identity Card of the petitioner has been produced which has been seen and returned and it is submitted on behalf of the petitioner that he has done his graduation qua which he was awarded a degree in Bachelor of Arts on 30.08.2007 by Veer Kunwar Singh University, ARA (Bihar). It is also been stated that he has also done his MBA and can look after his future and his investments.

Inter alia reliance is placed on behalf of the petitioner on the verdict of the Hon'ble Supreme Court in ***"AV Padma and Ors. Vs. R. Venugopal and Ors."*** 2012 Law Suit SC 66 wherein *inter alia* it has been observed vide para 5 to the effect:-

"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."***
>
> ***(emphasis supplied)***

observing thus, to the effect that sufficient discretion has been given to the Tribunal not to insist on the investment of the compensation amount in long term fixed deposit and to release even the whole amount in case of literate persons. It was *inter alia* observed vide the said verdict of the Hon'ble Supreme Court that the guidelines in ***Susamma Thomas*** were for the safeguarding of the feed from being frittered away by the beneficiaries due to ignorance, illiteracy and susceptibility to exploitation and that even as per the guidelines issued by the Hon'ble Supreme Court, long term fixed deposit of amount of compensation is mandatory only in the case of minors, illiterate claimants and widows.

Taking the said observations into account and the submissions of the petitioner that the petitioner is now well educated and working as a Government Servant and also taking into account the submission that has already been made on behalf of the respondent on 20.02.2019 as reiterated today also by the learned counsel for the respondent present that the respondent does not oppose the prayer made by the petitioner, the petition is allowed and the impugned order dated 21.01.2019 of the learned Presiding Officer, MACT (East), KKD Courts, Delhi in MAC No.3/13 is set aside with directions to the Branch Manager of the UCO Bank of the Delhi High Court to release the FDRs bearing no.213703 dated 21.07.2018, 213702 dated 21.07.2018, 213701 dated 21.07.2018, 213700 dated 21.07.2018, 017223 dated 02.12.2015, 017224 dated 02.12.2015, 017225 dated 02.12.2015 & 017226 dated 02.12.2015 in the name of the petitioner itself after ascertaining his identity.

The petition is disposed of accordingly.

Copy of this order be given *dasti* under the signatures of the Court Master, as prayed.

ANU MALHOTRA, J

FEBRUARY 21, 2019/NC