IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R. No. 844 of 2020 (O&M)
Date of Decision: 5.2.2020

Dharambir ...Petitioner

Vs.

Jugbir and others ...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Pankaj Mehta, Advocate for the petitioner.

RAJIV NARAIN RAINA, J. *(Oral)*

1. Petitioner and his two sons were awarded compensation in a sum of Rs.3.82,838/- vide award dated 16.5.2018 by Motor Accident Claims Tribunal, Hisar. Though a direction was given for deposit of compensation in FDR to safeguard the interests of the petitioner and his minor sons, 20% of compensation out of the share of the petitioner was ordered to be paid to him by the Tribunal.

2. The petitioner made an application for release of the remaining amount falling to his share of compensation deposited in the FDR to enable him to meet domestic and medical expenses of himself and his two sons. The application has been dismissed by the Tribunal. The petitioner has approached this Court for relief in this petition presented under Article 227 of the Constitution of India.

3. Learned counsel submits that 80% of the amount of compensation was deposited in the FDR account and the petitioner has received a sum of only Rs.22,000/-. He is in urgent and immediate need of money for the welfare of his children because the petitioner does not possess any other source of income except the amount lying deposited in the FDR to meet his daily needs.

4. The Tribunal by order dated 26.11.2019 has declined the request of the petitioner. The relevant part of which reads as under:-

> *"There is no material to support and justify cause for which FDR has been sought to be dissolved. The money, in FDR, belongs to applicant alone. This money has been locked only for the benefit of applicant, so that the money is not wasted immediately on its receipt. Social circumstances show that there is tendency to spend money, which has been received not in normal course. Compensation is not windfall but it is support to the applicant. Moreover, there is no justifiable cause to review its own order by this Tribunal. Furthermore, the option was given to claimant to deposit the compensation amount in nationalized bank or post office in some FDR/ monthly income scheme so as to meet his requirement of daily expenses but the claimant choose the option of FDR. In these circumstances, I do not find any justified reason to break FDR prematurely. Hence, the application in hands is dismissed."*

5. Perusal of the order would show that rejection of the request of the petitioner is improper in view of observations made by the Supreme Court in H.S. Ahammed Hussain Vs. Irfan Ahammed, 2002 (3) RCR (Civil) 563 holding that there cannot be any conceivable reason to deny release of the amount to the adult member who has secured an award of compensation from the Tribunal. The petitioner is claiming his own share alone and therefore, there cannot be any impediment in release of the amount in his favour without personal questions asked.

6. The impugned order is entirely perverse and is adversely commented upon by this Court. Faced with such an order, and there are many, a day might come when the High Court may be compelled to consider imposition of personal costs on the Tribunal for passing such an unlawful, unmindful and callous order at

the litigation expense of a hapless claimant asking for what was his right but had to knock on the doors of this Court. Right to awarded money is a right to property protected by Article 300A of the Constitution. It becomes the sacred duty and the grave responsibility of the Tribunal exercising judicial authority to act in aid of the Supreme Court as declared by Article 144. A little research by the Tribunal on the subject matter would have revealed to him a plethora of judicial precedents to follow on the point.

7. While dealing with an analogous law in a revision decided recently from the Railways Claims Tribunal, where also the Tribunal had declined the request of the petitioning claimant for release of her share of compensation duly awarded, which the Tribunal but had for the wrong reason refused to break the Fixed Deposit in a Bank in favour of the petitioner, I had allowed the revision at the first hearing without notice to the respondent judgment-debtor observing in CR 493 of 2020 [Shahjadi Khatoon & Others v. Union of India] decided on 27.1.2020 as follows:-

> *"…At any rate, it is well-settled in law that where the right to money is based on final decree and the original owner has the choice of appropriation of compensation in the manner he regards best in the interest of that person, the money deposited by the judgment debtor has to be handed over to the award-holder without placing any riders thereon. It is trite law that once compensation amount is awarded by the court, it should go to the claimant. No one can question a major person of sound mind entitled to an adjudicated amount of compensation in an award which has become final, suspecting how the money would be put to use by the rightful owner. This is not the business of the Tribunal. This court hopes that such litigation should not come to it again."*

8. In view of the aforesaid reasons, order dated 26.11.2019 (P-3) passed by the MACT, Hisar is set aside, the amount of compensation falling to the share of the petitioner held in fixed deposit is ordered to be released in his favour along with consequential interest accrued thereon within a period of two weeks from the date of receipt of a certified copy of this order, after due verification of identity with the sum credited in his bank account, the particulars of which will be supplied by the petitioner and made a part of the order of release.

9. Petition stands disposed of.

10. Office to send a copy of this order to the Tribunal that passed the order for guidance and record.

(RAJIV NARAIN RAINA)
JUDGE

5.2.2020
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Whether speaking/reasoned : *Yes*
Whether reportable : *Yes*