NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Cr.M.P.No.298 of 2021

Laxmi Singh Banjare, son of Shyam Lal Banjare, aged about 39 years, R/o Village Pamgarh, District-Janjgir-Champa (CG)

---Petitioner

Versus

State of Chhattisgarh, through the District Magistrate, District-Janjgir-Champa (CG)

--- Respondent

For Petitioner :- Dr.N.K.Shukla, Senior Advocate with
Mr.Arijit Tiwari, Advocate
For State :- Mr. Ravi Bhagat, Dy. G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

15/03/2021

1. By the impugned order, the revisional Court has partly modified the order passed by the Judicial Magistrate First Class, Pamgarh dated 26.12.2020 releasing the vehicle owned by the petitioner subject to condition of furnishing Supurdnama as well as subject to deposit ₹ 8,00,000/- in compliance of Rule 240-A of the Chhattisgarh Motor Vehicles (Amendment) Rules, 1994 (hereinafter called as 'the Rules of 1994') and directed to deposit ₹7,50,000/-.

2. Dr.N.K.Shukla, learned Senior Counsel with Mr.Arijit Singh, learned counsel for the petitioner, would

submit that condition of depositing ₹ 7,50,000/- by the revisional Court is stringent condition and that deserves to be set-aside as the petitioner would not be able to furnish the same and it be modified suitably.

3. On the other hand, Mr.Ravi Bhagat, learned Deputy Government Advocate, would support the impugned order.

4. I have heard learned counsel for the parties and considered their rival submissions made hereinabove and also went through the records with utmost circumspection.

5. Rule 240-A of the the Rules of 1994 provides as under:-

> "**240-A. Prohibition on release of motor vehicle causing accident. -** (1) No court shall release a motor vehicle causing an accident resulting in death or bodily injury or damage to property, if such vehicle is not covered by the policy of insurance against third party risks or if the registered owner fails to furnish copy of such insurance policy despite demand by investigating police officer, unless and until the registered owner furnishes sufficient security to the satisfaction of the court, to pay compensation that is likely to be awarded in a claim case arising out of such accident.

(2) Where the motor vehicle is not covered by a policy of insurance against third party risks, or when registered owner of the motor vehicle fails to furnish copy of such policy as per condition mentioned in sub-rule (1), the motor vehicle shall be sold off in public auction by the magistrate having jurisdiction over the area where accident occurred, on expiry of three months of the vehicle being taken in possession by the investigating police officer, and proceeds thereof shall be deposited with the Claims Tribunal having jurisdiction over the area in question, within fifteen days for purpose of paying the amount of compensation that may have been awarded, or may be awarded in a claim case arising out of such accident.

(3) The Claims Tribunal shall return the balance amount from the amount obtained by the public auction of the vehicle as per sub-rule (2) after paying the compensation finally decided in the claims case and after deducting the amount due to the transport department on account of the said vehicle, to the registered vehicle owner, but no interest shall be payable to the registered vehicle owner on said amount. The amount due to the transport department shall be sent to the transport department by the Claims Tribunal.

(4) No Tax/Interest/Penalty shall be leviable on the vehicle from the date of taking into custody by the investigating officer till the date of public auction of the vehicle.”

6. A careful perusal of the aforesaid rule would show that if from a motor vehicle, any accident, death or physical injury occurs, and the vehicle is not insured during that particular period, then the Court releasing the vehicle would not release the said vehicle unless the registered owner furnishes sufficient security to the estimated compensation, otherwise, the said vehicle will be subjected to public auction and the proceeds of the same will go to the Claims Tribunal of that area towards compensation.

7. Admittedly, petitioner's vehicle was not insured at the time of accident being Borewell vehicle and young boy died arising out of the vehicle owned by the petitioner. Since vehicle was not insured at the time of accident and in view of the provisions contained in Rule 240-A of the the Rules of 1994, the trial Court directed the estimated compensation of ₹ 8,00,000/- to be deposited by the petitioner, which was modified by the revisional Court to the extent of ₹ 7,50,000/- though condition of depositing ₹7,50,000/- appears to be harsh at threshold, but in deeper consideration and taking into account the death of young boy in the accident from the petitioner's vehicle and in view of the fact that the petitioner's vehicle was admittedly not insured at

the time of accident despite imperative provisions for compulsory insurance, the owner has to make payment of compensation, if any, as per award of the Claims Tribunal to be passed, in claim case to be filed by the claimant(s) and in view of the provisions contained in Rule 240-A of the the Rules of 1994, direction of the revisional Court to deposit ₹ 7,50,000/- as a condition precedent for release of the vehicle cannot be interfered with.

8. Accordingly, the present petition deserves to be and is accordingly dismissed. However, if the amount is deposited by the petitioner, the Judicial Magistrate First Class, Pamgarh, District-Janjgir-Champa is directed to inform the concerned Motor Accident Claims Tribunal having jurisdiction to try the claim case arising out of death from the petitioner's vehicle so that the claimant(s) may not face difficulty in recovery of compensation in claim case filed by them.

Sd/-

(Sanjay K. Agrawal)
Judge

B/-