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

Date of Decision: 28th April, 2021

\+ **CM(M) 219/2021 & CM APPL. 9985/2021**

FEKU LAL ..... Petitioner

Through: Mr. Umesh Suri, Mr. Ajit Kr. Sinha & Mr. Avinash Suri, Advs. (M-9958124433)

versus

SMT. ASHU ..... Respondent

Through: None.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through video conferencing.

2. Petitioner No. 1, who is the grandfather of Petitioner No.2 and 3, has filed the present petition, seeking release of the fixed deposits for the benefit and welfare of the children, which was originally in the name of the mother of the children. The Petitioner had submitted that due to a settlement, the said FDRs have been transferred in the names of the Petitioner No. 2 and 3.

3. The brief background is that a MACT petition bearing no.***42/12*** for compensation *qua* accidental death of the deceased, had been initiated by the legal heirs of the deceased before the MACT Court, Central District, Tis Hazari Courts. The Petitioner No.1 is a father of the deceased. Vide judgment dated 19th March 2013, the ld. MACT Court had directed the Insurance company to pay a sum of Rs. 15,73,600/- to the legal heirs of the deceased. This order was appealed before the High Court in ***MAC Appl. No. 737/2013,*** wherein, vide order dated 14th October 2014, the appeal filed was dismissed, and the compensation amount was increased to Rs.21,18,208/-.

80% of the said amount was kept in favour of the Deceased's wife in FDRs, and the rest was released to her at once, post which, she left for her paternal house, leaving the children to be taken care of by the Petitioner-Grandfather. The Petitioner No.1's daughter in law i.e., the wife of the deceased and the mother of Nandani and Muskan, has since, remarried and has taken her share of the interest from the fixed deposits. Thereafter, vide order dated 1st February 2021, this MACT court directed the wife of the deceased to transfer the five FDR's which she was holding in her name, in different bank accounts to the two minor children that is Nandani and Muskan in equal share, and her statement *qua* the same was recorded. Thereafter, the Petitioner had moved an application before the MACT Court, for release of pre-matured FDRs with interest, as he was taking care of the children and required money for day-to-day expenditures.

4. Vide the impugned order dated 25th February 2021, passed by the Presiding Officer- MACT-02 (Central), the said application of the Petitioner- Grandfather has been rejected. The observations of the MACT Court are as under:

> *"During the pendency of the first application mentioned above, an application U/s 151 CPC was moved on behalf of Sh. Feku Lal as a next Friend of minor claimants namely Muskan and Nandani for premature release of the shares of Muskan and Nanadani on the grounds that the applicant who also happens to be the grandfather (Sh. Feku Lal), is about 73 years old, has no source of income, residing in a Kachcha house and has taken a loan of Rs. 1,50,000/- against his land. It seems that Sh. Feku Lal, grandfather/ Next Friend of the minor applicants Muskan and Nandani seeks premature release of shares of the said minors in order to repay the loan of*

> *Rs. 1,50,000/- secured against his immovable property. However, the applicant Sh. Feku Lal is unable to justify the reasons for which he has availed the said loan. He has not stated the expenses as incurred by him for the benefit of the minors namely Muskan and Nandani out of the said loan. Accordingly, this tribunal finds it inappropriate to allow the said application. Hence the said application stands dismissed."*

5. Hence, the present petition has been filed challenging the said impugned order. The case of the Petitioner is that he has been taking care of his grandchildren for the past seven years and has incurred expenditure in their upbringing, however he has not received any part of the amount that is meant for the benefit of these children. Accordingly, six indicated FDRs are prayed to be released in his favour.

6. Vide order dated 18th March, 2021, this court had called for status reports in respect of all the six deposits from both the banks, UCO Bank, Delhi High Court and the SBI, Tis Hazari Courts, as to total amount, the maturity amount, and the amount of interest that is available in respect of all these deposits.

7. The said reports have been received.

8. From a perusal of the said reports, it is clear that the FDRs, of which release is being sought are available with the UCO Bank and the SBI. This fact is also confirmed from a perusal of the impugned order dated 25th February 2021, where the statements of the officials from the bank has also been recorded.

9. It is not in dispute that Mrs. Ashu, the mother has remarried and currently, the well being of the children is being looked after by the grandfather- Mr. Feku Lal, who is Petitioner No.1, before this court.

Moreover, there are sufficient amounts, which are kept in the FDR, for being released after the children have attained maturity as well.

10. Considering the present pandemic situation, as also the financial condition of the Petitioner, the impugned order, which rejects the release of the FDRs in favour of the grandfather, would not be justified.

11. Accordingly, let the amounts in the six FDRs tabulated below, which are in the name of the mother Mrs. Ashu or in the name of Ms. Nandini and Ms. Muskan, along with interest amounts which have accrued thereon (subtracting the TDS on the interest component), be released to Mr. Feku Lal, the grandfather. This Court is conscious of the fact that some part of the interest has already been paid to the mother, at the time when she was receiving the interest under the terms of the settlement.

12. The details of the FDRs, which are to be released in favour of the Petitioner are as under:

S. No.	***FDR No.***	***Name***	***Amount Rs.***	***Maturity Date***	***Bank Name***
1	34965870758	Respondent No.1	66,930/-(interest has been drawn by Respondent No.1)	01.06.2024	SBI, Tis Hazari Court
2	34965859134	Respondent No.1	66,930/-(every month interest has been drawn by Respondent No.1)	01.06.2022	SBI, Tis Hazari Court
3	15530310498705	Respondent No.1	38,689.64/-(every month interest has been drawn by Respondent No.1)	19.01.2022	UCO Bank, High Court of Delhi

4	15530310498712	Respondent No.1	38,689.64/-(every month interest has been drawn by Respondent No.1)	19.01.2025	UCO Bank, High Court of Delhi
5	15530310401071	Respondent No.1	1,42,454/-(every month interest has been drawn by Respondent No.1)	17.12.2023	UCO Bank, High Court of Delhi
6	155303104988873	Petitioner No.1	48,362/-(8.75 interest)	19.10.2025	UCO Bank, High Court of Delhi

13. The said amounts shall be released, irrespective of the maturity date of the FDRs, to the grandfather i.e., Mr. Feku Lal, within a period of two weeks from today. The amounts shall be transmitted directly to the account of Mr. Feku Lal. Details of the bank account of the Petitioner are as under:

> *"Mr. Feku Lal*
> *A/c No. 0613000101934206*
> *IFS Code PUNB0061300*
> *Punjab National Bank, Gokhale Market, Delhi-110006"*

14. All the remaining FDRs would continue to be retained by the respective banks on auto renewal mode. Since the Respondent has already given consent, the presence of the Respondent is not required in this matter.

15. With these observations, the present petition, along with all pending applications, is disposed of. The digitally signed copy of this order can be produced by the Petitioner for the release of the said FDRs. Copy of this order be communicated by the Registrar (Appellate), to both the banks for compliance.

PRATHIBA M. SINGH
JUDGE

APRIL 28, 2021/*dj/ak*