

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.11175 of 2022

Kamala Tiria & others

....

Petitioners

Mr. Gopinath Mishra, Advocate

-versus-

***Motor Accident Claims Tribunal,
Mayurbhanj***

....

Opposite Party

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

14.11.2022

Order No.

02.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner.
3. The present writ application has been filed seeking for a direction to the Motor Accident Claims Tribunal, Baripada to release the entire awarded amount in favour of the Claimants by quashing the order dated 23.02.2022 under Annexure-1.
3. It is submitted by the learned counsel for the Petitioner that an award was passed by the M.A.C.T., Baripada in MACT Case No.07 of 2005. It is further submitted by the learned counsel for the Petitioner that the award was passed in the Lok Adalat held on 12.09.2020 and the matter was settled between the Insurance Company and the Claimants at Rs.23,00,000/- to be paid within a period of two months. Further, it is submitted by the learned counsel for the Petitioner that out of the total amount of Rs.23,00,000/- an amount of Rs.13,00,000/- shall be kept in fixed deposit in any

Nationalised Bank jointly in the name of the Petitioners and the balance amount be released in favour of the claimant-Petitioners.

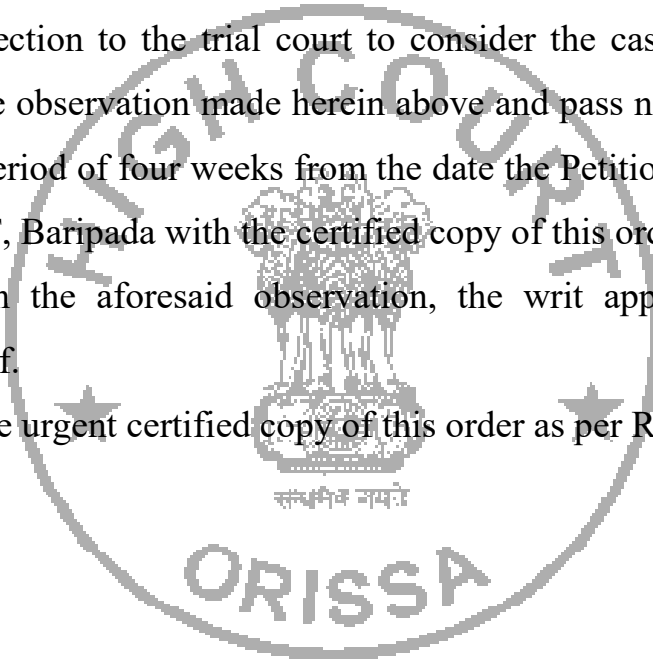
4. Learned counsel for the Petitioner further contends that in the meantime the Petitioner Nos. 2 & 3, who were minor at the time of accident have attained majority and they are aged about 34 and 32 years respectively and out of the three petitioners, Petitioner No.1 is the wife and Petitioner Nos. 2 & 3 are the sons of deceased. In such view of the matter, learned counsel for the Petitioner submits that when the minor children of the deceased have attained the majority and the family runs a petrol pump business and requires money, there is no meaning for withholding a part of the awarded amount. Accordingly, the learned counsel for the Petitioner prays for quashing of the impugned order Annexure-1 and for a direction to release the entire awarded amount deposited in the fixed deposit.

5. A perusal of Annexure-1, it appears that the trial court while disposing of the application of the Petitioner to release the awarded amount which has been kept in fixed deposit has rejected the same. By referring to the judgment of the Hon'ble Supreme Court in **Union Carbide Corporation v. Union of India (AIR 1992 SC 248)** So far as the judgment of **Union Carbide Corporation** is concerned, the same is not applicable to the facts of the present case inasmuch as the judgment in **Union Carbide Corporation** (supra) dealing with the beneficiaries who are all ignorant and illiterate persons of the locality and were exploited by various States and private agencies. Therefore, the Hon'ble Supreme Court came forward to protect the interest of literate and ignorant citizens by laying a guidelines to protect their future and interest. So far as the present case is concerned, the awarded amount entirely belongs to the family of the deceased, who died in the accident and in absence of any minor

whose future is required to be protected by this Court, this Court is of the considered view that the entire awarded amount be released in favour of the Petitioner. Furthermore, keeping in view the submissions made by the learned counsel for the Petitioners that the Petitioners are running a petrol pump and require money and accordingly borrowed money and paid interest to the bank. In such view of the matter this Court is of the opinion that no fruitful purpose will be served by keeping the money in Fixed deposit while the Petitioners are required to pay interest to the Bank on the capital money. In such view of the matter, the writ application is disposed of with a direction to the trial court to consider the case afresh in the light of the observation made herein above and pass necessary orders within a period of four weeks from the date the Petitioner approaches the MACT, Baripada with the certified copy of this order.

6. With the aforesaid observation, the writ application stands disposed of.

7. Issue urgent certified copy of this order as per Rules.



RKS

(A.K. Mohapatra)
Judge