**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.5115 OF 2022

ANITA RAOSAHEB RAMMAIYA AND ANOTHER
VERSUS
SAYYAD RIYAJUDIN FAJIUDIN AND OTHERS

. . .
Advocate for Petitioners : Mr. Arun S. Shejwal
. . .

CORAM : MANGESH S. PATIL, J.

DATED : 06 JUNE 2022

PER COURT :

. Heard the learned advocate Mr. Arun Shejwal for the petitioners.

2. The petitioners have been found entitled to claim compensation on account of a motor accident in which their predecessor Raosaheb died, in a proceeding under section 166 of the Motor Vehicles Act, 1988 by the award dated 16 June 2010.

3. By virtue of the award, *inter alia*, an amount of Rs.1,00,000/- was directed to be deposited as a fixed deposit in the name of petitioner No.1 - Anita Raosaheb Rammaiya in any nationalized bank granting her liberty to withdraw the interest periodically.

4. By moving application on which the impugned order is passed, the petitioner No.1- Anita sought permission of the Tribunal to withdraw the amount of Rs.1,00,000/- on the ground that though she was allowed to withdraw the interest, which is the only source of earning, she has to maintain the petitioner No.2 child. Because of the pandemic she was unable to earn her livelihood and claimed to withdraw the amount by terminating the fixed deposit pre-maturely.

5. By the order under challenge, the Tribuanl refused the request on the sole ground that since the award finds her entitled to and permits her to withdraw the interest, no order permitting her to withdraw the amount deposited as a fixed deposit can be passed.

6. Obviously, though the respondents are the respondents in the original claim petition, they need not be heard as they may not have any adverse interest while considering the present request.

7. It is the matter of record that the tribunal while awarding the compensation had directed an amount of Rs.1,00,000/ to be deposited in the name of petitioner no.1 and permitted her to withdraw the interest accrued thereon from time to time. It would be travesty of justice to conclude that she is not entitled to the principal amount of Rs.1,00,000/-, which in all probability must have been directed to be deposited as a fixed deposit to

protect her interest. It is therefore quite apparent that the tribunal has refused to exercise the jurisdiction vested in it while considering the request to withdraw the amount by terminating the fixed deposited pre-maturely.

8. Considering the fact that the award was passed wayback in the year 2010 and for all this time principal amount of Rs.1,00,000/- continues to be deposited as fixed deposited in the nationalized bank, and the petitioner No.1 being major and has to earn her livelihood, simultaneously maintaining the petitioner no.2, in absence of any concrete material to attribute some ulterior motive, the request being made by her was rather innocuous and ought to have been accepted by the tribunal.

9. The impugned order is clearly erroneous and arbitrary and needs to be quashed.

10. The petition is allowed as prayed for.

11. Petitioner No.1 shall be entitled to withdraw the amount together with interest accrued thereon to the extent of the deposite standing in her name alone and not the petitioner no.2.

(MANGESH S. PATIL, J.)

Tandale/-