

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

CR-6089-2024**Date of Decision: 19.11.2024**

SAYYARA

. . . . PETITIONER

Vs.**LAXMAN AND OTHERS**

. . . . RESPONDENTS

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present:- Mr. Kapish Singla, Advocate, for the petitioner.

DEEPAK GUPTA, J.

By way of this petition filed under Article 227 of the Constitution of India, petitioner assails the order dated 30.08.2024 (*Annexure P5*) passed by Id. MACT, Sonipat, declining the application of the petitioner for pre-mature release of the amount of an FDR lying in the name of her minor son [*referred as 'Anus' in award Annexure P1; as 'Ansh' in FDR Annexure P2; and as 'Anas' in the receipt Annexure P3*].

2. Arif died in a motor vehicular accident. Claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by his Legal Representatives, was allowed on 05.08.2022 by Id. MACT Sonipat vide award *Annexure P1*. Compensation of ₹22,19,000/- along with interest was awarded. 1/4th of the said amount was directed to be paid to minor son Anus. Consequent to the directions of MACT, an amount of ₹6,78,988/- was converted in an FDR dated 7.3.2023 *Annexure P2* issued by the Canara Bank in the name of minor Anus, the date of maturity of which is 07.03.2033.

3. Sayyara-petitioner, the mother of minor Anus, moved an application *Annexure P4* before MACT, Sonipat for withdrawal of the aforesaid FDR by submitting that she was in urgent need of money, inasmuch as she had entered into an agreement to sell a plot in the name

of said Anus and had no other source of money except the amount of the FDR and as such, the amount was necessary to purchase the plot. It was pleaded that worth of the plot shall be increased in a fast way and as such the same shall be in the benefit and welfare of the minor. It was also pleaded that applicant needed money for better education and maintenance of the children and so, the amount of the FDR be directed to be released. Applicant relied upon ***Smt. Mindro and others Vs. Krishan Kumar and others*** (CR-7451-2016 decided by Coordinate Bench of this Court on 14.03.2017). However, said application moved by the petitioner was dismissed by the Tribunal vide impugned order dated 30.08.2024.

4. Assailing the aforesaid order, it is contended by Id. counsel that the whole purpose of depositing the amount in the name of the minor by converting the same in a FDR is that the money is not frittered away and the same can be properly utilized for the minor at the appropriate time. Id. counsel argues that by investing the amount for purchasing a plot, the worth of which is likely to be increased many-fold in future, the petitioner, who is the mother of the minor, is not going to waste the money and rather, the same shall be utilized for the welfare and benefit of the minor and therefore, the application deserved to be allowed.

5. Since nothing is to be done by the Insurance Company or the owner/driver of the offending vehicle, therefore, no notice of the application is required to be given to the respondents.

6. This Court has considered submissions of Id. counsel for the petitioner and has appraised the record.

7. In ***General Manager, Kerala S.R.T.C. Vs. Susamma Thomas, 1994 AIR SC 1631***, Hon'ble Supreme Court has laid down certain guidelines with a view to safeguard the interest and welfare of the minors and also that of the illiterate and semi illiterate persons, regarding the compensation payable to them in MACT cases. These guidelines read as under: -

“23. In a case of compensation for death it is appropriate that the Tribunals do keep in mind the principles enunciated by this Court in ***Union Carbide Corpn. v. Union of India (1991) 4 SCC 584*** in the matter of appropriate investments to safeguard the feed from being frittered away by the beneficiaries owing to ignorance, illiteracy and susceptibility to exploitation. In that case approving the judgment of the Gujarat High Court in ***Muljibhai Ajarambhai Harijan v. United India Insurance Co. Ltd. (Guj LR pp. 759-60)***, this Court offered the following guidelines:

‘(i) The Claims Tribunal should, in the case of minors, invariably order the amount of compensation awarded to the minor be invested in long term fixed deposits at least till the date of the minor attaining majority. The expenses incurred by the guardian or next friend may, however, be allowed to be withdrawn;

(ii) In the case of illiterate claimants also the Claims Tribunal should follow the procedure set out in (i) above, but if lump sum payment is required for effecting purchases of any movable or immovable property such as, agricultural implements, rickshaw, etc., to earn a living, the Tribunal may consider such a request after making sure that the amount is actually spent for the purpose and the demand is not a ruse to withdraw money;

(iii) In the case of semi-literate persons the Tribunal should ordinarily resort to the procedure set out at (i) above unless it is satisfied, for reasons to be stated in writing, that the whole or part of the amount is required for expanding and existing business or for purchasing some property as mentioned in (ii) above for earning his livelihood, in which case the Tribunal will ensure that the amount is invested for the purpose for which it is demanded and paid;

(iv) In the case of literate persons also the Tribunal may resort to the procedure indicated in (i) above, subject to the relaxation set out in (ii) and (iii) above, if having regard to the age, fiscal background and strata of society to which the claimant belongs and such other considerations, the Tribunal in the larger interest of

the claimant and with a view to ensuring the safety of the compensation awarded to him thinks it necessary to do order;

(v) In the case of widows the Claims Tribunal should invariably follow the procedure set out in (i) above;

(vi) In personal injury cases if further treatment is necessary the Claims Tribunal on being satisfied about the same, which shall be recorded in writing, permit withdrawal of such amount as is necessary for incurring the expenses for such treatment;

(vii) In all cases in which investment in long term fixed deposits is made it should be on condition that the Bank will not permit any loan or advance on the fixed deposit and interest on the amount invested is paid monthly directly to the claimant or his guardian, as the case may be;

(viii) In all cases Tribunal should grant to the claimants liberty to apply for withdrawal in case of an emergency. To meet with such a contingency, if the amount awarded is substantial, the Claims 11 (1982) 1 Guj LR 756 Tribunal may invest it in more than one Fixed Deposit so that if need be one such F.D.R. can be liquidated.'

These guidelines should be borne in mind by the Tribunals in the cases of compensation in accident cases."

8. Later on, Hon'ble Supreme Court reiterated these guidelines in ***Lilaben Udesing Gohel vs. The Oriental Insurance Company Ltd., 1996 (3) RCR (Civil) 18***, para No.17 of which reads as under: -

"17. Before we part we must observe that even though the guidelines laid down in ***Muljibhai's case*** have been approved and applied by this Court in the aforementioned two cases, many Motor accidents Claims Tribunals and even some of the High Courts in other parts of the country do not follow them. We are also told that in claims that are settled in or outside the Court or Tribunal, including Lok Adalats or Lok Nyayalayas, these guidelines are overlooked. We would like to make it absolutely clear that in all cases in which compensation is awarded for injury caused in a motor accident, whether by way of adjudication or agreement between the parties the Court/Tribunal must apply these guidelines. We must add one

further guideline to the effect that when the amount is invested in a fixed deposit, the bank should invariably be directed to affix a note on the Fixed Deposit Receipt that no loan or advance should be granted on the strength of the said FDR without the express permission of the Court/Tribunal which ordered the deposit. This will eliminate the practice of taking loans which may be up to 80% of the amount invested and thereby defeating the very purpose of the order. We do hope that the Courts/Tribunal in the country will not succumb to the temptation of permitting huge withdrawals in the hope of disposing of the claim. We are sure that the Courts/Tribunals will realise their duty towards the victims of the accident so that a large part of the compensation amount is not lost to them. The very purpose of laying down the guidelines was to ensure the safety of the amount so that the claimants do not become victims of unscrupulous persons and unethical agreements or arrangements. We do hope our anxiety to protect the claimants from exploitation by such elements will be equally shared by the Courts/Tribunals.”

9. In ***Kajal Vs. Jagdish Chand and others, AIR 2020 SC 776***, Hon’ble Supreme Court, after referring to the guidelines issued in ***Susamma Thomas Case (supra)*** observed as under: -

“These guidelines protect the rights of the minors, claimants who are under some disability and also widows and illiterate person who may be deprived of the compensation paid to them in lump sum by unscrupulous elements. These victims may not be able to invest their monies properly and in such cases the MACT as well the High courts must ensure that investments are made in nationalised banks to get a high rate of interest. The interest in most cases is sufficient to cover the monthly expenses. In special cases, for reasons to be given in writing, the MACT or the trial court may release such amount as is required. We reiterate these guidelines and direct that they should be followed by all the tribunals and High Courts to ensure that the money of the victims is not frittered away.

10. As is evident from the aforesaid guidelines, in case of minors, invariably the compensation amount as awarded to the minor is required to be invested in long term FDRs at least till the date of the minor attaining

the majority. It is only the expenses incurred by the guardian or the next friend, which may be allowed to be withdrawn. The claimant may also be given liberty for premature withdrawal only in case of an emergency. The guidelines are meant to protect the rights of the minors, to ensure their welfare and benefit and also to ensure that money as payable to the minor, till his/her attaining majority, is not frittered away.

11. In the present case, age of minor Anus is only 6 years as his date of birth as reflected in *Annexure P2* is 18.07.2018. He will attain majority in 2033. Petitioner cannot be sure that by purchasing the plot in the name of minor, she will be saving the interest of the minor. As the agreement/receipt *Annexure P3*, relied by the petitioner would reveal, plot is agreed to have been purchased on 20.05.2024 for consideration of ₹5 lakh and petitioner claims that she is required to pay amount of ₹4,50,000/- to make up the sale consideration part. At the time of entering into the agreement, petitioner knew very well that she was not having any money and as such, it cannot be said that she had genuine need for premature withdrawal of the amount lying in FDR in the name of the minor. Although, it is mentioned in the application that she requires money for education of the minor also, but it is stated by Id. counsel that the entire amount of ₹4,50,000/- out of the FDR amount is to be paid to the proposed vendor.

12. As far as, the case of ***Smt. Mindro (Supra)*** relied by counsel for petitioner is concerned, in that case, mother of the minors was an old lady having no source of income. Her two minor children were school going and money was sought to be withdrawn, as after the death of her son, she had borrowed the amount from her relatives for the maintenance of herself and minor children. She wanted the money to be withdrawn so that she was able to maintain and educate both the minor children. It was by keeping in view these peculiar facts and circumstances that money was allowed to be prematurely withdrawn. The facts of the present case are quite distinguishable and as observed above, no genuine need or pressing

necessity is shown by the petitioner for premature withdrawal of the amount lying in the name of the minor.

13. Having regard to the aforesaid facts and circumstances, this Court is not inclined to interfere in the order passed by the MACT, declining the application for premature withdrawal of the amount.

14. Consequently, the present petition is hereby dismissed.

19.11.2024

Vivek

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned?
Whether reportable?

Yes
Yes/No