03.02.2026
Sl. No.: 2
Court No.9
BM

FMAT 1197 OF 2018

BHUNESHWAR THAKUR
VS
UNION OF INDIA, REPRESENTED THROUGH G.M, SOUTH EASTERN RAILWAY.

Mr. Navin Mittal
... for the appellant
Mr. Rabindra Nath Bag, Sr. Adv.
Mr. Amarendra Chakraborty
Mr. Sk. Md. Wasim Akram
Ms. Piyas Choudhury
... for the respondents

1. Learned advocates for the parties are present.

2. Heard learned advocates.

3. This appeal is directed against the Judgement and Order dated 07.05.2018 passed by the learned Railway Claims Tribunal, Kolkata Bench in Claim Application No.: OA/IIU/KOL102/2011.

4. The grounds of challenge in this appeal is that the Learned Tribunal while awarding the compensation along with interest had directed the respondent Railway Authority to deposit 90 per cent of the decreetal amount of claimant nos.1 and 2 being the appellants herein in a fixed deposit scheme in Bank Account near place of residence of the applicant/dependent at least for a period of three years from the date of disbursement after proper examination of credentials with regard to identity of

the decree holder and after being satisfied with their identity and relationship.

5. It was further observed that the amount deposited in fixed deposit scheme shall not be prematurely withdrawn without leave of the tribunal.

6. It was further directed that both the claimants and appellant must be present before the disbursing authority of the respondent Railway.

7. Learned Advocate for the appellants submits that the Learned Tribunal without applying mind has directed the compensation to be kept in fixed deposit. Learned Advocate also relies upon an unreported decision of the Hon'ble Madhya Pradesh High Court in Misc. Petition No.1753 of 2022.

8. The Hon'ble Court in the said decision was pleased to observe as follows :-

> "6. Admittedly that the Tribunal has no such jurisdiction in case where the claimants are major, who are none other than the parents of the deceased. This condition no.17 is incorporated by the Tribunal is unwarranted and uncalled for in the eye of law. The claimants who are the parents of the deceased and nearer to the age of 50 years have every right to utilize the amount in any manner, as they like.
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> 7. The learned counsel for the respondent/Railway has placed reliance in para -

23 of General Manager Kerala State Road Transport Corporation Trivandrum vs. Susamma Thomas(Mrs.) and others, (1994)2 SCC 176, which reads as follows :-

23. In a case of compensation of 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) 4SCC 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 judgement of the Gujarat High Court in Muljibhai Ajrambhai Harijan v. United India Insurance Co. Ltd.[(1982) 1 Guj LR 765] this court offered the following guidelines: (Guj LR pp.759-60)

"(i) the Claims Tribunal should, in the case of minors, invariably order the amount of compensation awarded to the minor be invested in long terms fixed deposits at least till the date of 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 expending the 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 (i) 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 widow the Claims Tribunal should invariably follow the procedure set out in (i) above;

(vi) In personal injury cases if further treatment is necessary in 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 terms 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 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.

9. The Hon'ble Court further observed as follows :-

"9. A judgement of Hon'ble Apex Court in the case of H.S. Ahammed Hussain and Another vs. Irfan Ahammed, (2002) 6 SCC 52, relevant para -8 reads as follows :

> 8. .... In the facts and circumstances of the present case, we are of the view that the amount of compensation awarded in favour of the mothers should not be kept in fixed deposit in a nationalised bank.....

10. In the light of above said judgements, no restriction can be imposed on the rights of an adult to claim compensation amount deposited in their names by the Railways."

10. Upon hearing the Learned Advocate for both the parties and upon considering the decision relied upon this Court is of the view that no ground is cited by the Learned Tribunal and no provision in the statute is quoted as to why the compensation awarded to the claimants who are adult person will not be handed over to them by either Bank draft or account payee cheque.

11. As the appellants/claimants are not minor the direction ought to have been given to pay the appellants/claimants directly. Thus, the direction of

the learned Tribunal in depositing the compensation amount in fixed deposit scheme of a Bank cannot be sustained and the same is set aside.

12. In the facts and circumstances, the award of compensation which was granted by the Learned Tribunal remains un-altered. The respondent Union of India Railway Authority is directed to deposit the compensation amount along with interest as directed by the Learned Tribunal before the Registrar General, High Court, Calcutta. Such deposit shall be made within eight weeks from the date of communication of this order. Upon deposit being made the appellants/claimants will be entitled to withdraw the same upon compliance of all necessary formalities.

13. Let necessary rectification be made in the cause title.

14. The appeal stands disposed of.

15. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Biswaroop Chowdhury, J.)