(2002) 01 P&H CK 0026

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision No. 4 of 2002

Geeta Rani etc. APPELLANT

Vs

Oriental Bank of Commerce Ltd. RESPONDENT

Date of Decision : 03-01-2002

Acts Referred:
Motor Vehicles Act, 1988 — Section 166

Citation : (2002) 4 RCR(Civil) 699

Hon'ble Judges : M.M. Kumar, J

Bench : Single Bench

Advocate : Dinesh Kumar Gupta, for the Appellant;

Final Decision : Allowed

Judgement

M.M. Kumar, J.—This revision petition is directed against the order dated 30th August, 2001 passed by the Motor Accident Claims Tribunal (for brevity the Tribunal). The Tribunal has declined the prayer of the petitioners for disbursing the awarded amount which was ordered to be kept is Fixed Deposit Receipt vide award dated 1.3.2000.

2. The petitioners filed an application for the disbursement of the amount with the averments that Geeta Rani has four minor children to maintain beside herself and having no source of income she wants to open a grocery shop to earn her livelihood. She asserted that she has a legal necessity. However, their application was rejected on 30.8.2001 by the Tribunal by recording the following order:

"Award passed by MACT dated 1.3.2000 in favour of Geeta Rani gone through to find that it was ordered to deposit the amount of Rs. 50,000/- out of the awarded amount in her favour in the shape of Fixed Deposit Receipt, in some nationalized bank. That amount is reported of having been so deposited with Feroze Gandhi Branch of Oriental Bank of Commerce. I do not find any worth while reason to review the order dated 1.3.2000 vide which it was thought appropriate to retain the amount of Rs. 50,000/- in the name of the applicant in fixed deposit. However, still in order to enable the applicant Geeta Rani to maintain herself, she would be entitled to withdraw quarterly interest accruing upon the deposit above said. Remaining claim in the application are unsustainable and are declined. File be consigned to the record room.

3. Shri Dinesh Kumar Gupta, learned counsel for the petitioners has argued that there is no provision in the Motor Vehicles Act casting any duty on the Tribunal to put the awarded amount in fixed deposit either in the cases of minor or in the cases of major. He further submitted that the Tribunal in the larger interest of the minor children who are of tender age has passed order for depositing of the awarded amount in Fixed Deposit which is understandable. However, there is no reason for the Tribunal to decline such a prayer of the persons who have attained the age of majority.

4. I have thoughtfully considered the submission made by the learned counsel. The submission of the learned counsel that there is no provision in the Motor Vehicles Act, 1988 obliging the Tribunal to deposit the awarded amount in a fixed deposit is absolutely mis-conceived and deserves to be rejected. The Supreme Court in the case of General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, reiterated detailed principles enunciated in the case of Union Carbide Corporation v. Union of India. The principles enunciated read as under:-

(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 agricultural implements, rickshaw, earn a living, the Tribunal may request after making sure the money 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 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 (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 claimants and with a view to ensuring the safety of the compensation awarded to him thinks it necessary to so 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 Tribunal may invest it in more than one Fixed deposit so that if need be one such F.D.R. can be liquidated."

5. However, the other argument that the amount payable to the widow who is major is liable to be accepted as she appears to have legal necessity for opening a grocery shop so that she may earn to maintain herself and the children. In the facts and circum stances of the case, it would be travesty of justice if the widow who looks to be edu cated is denied withdrawal of awarded amount. Therefore, the revision petition is al lowed and a direction is issued to respondent No. I to disburse the amount of awarded compensation which has been deposited with them, with interest within a period of fif teen days of the receipt of a copy of this order. It is further made clear that the amount should be disbursed only to Smt. Geeta Rani widow of late Shri Mani Ram and none else. The payment shall not be made even to any authorised person or power of attor ney.

6. Copy of the order be given dasti.

