(2012) 06 KL CK 0008

In the High Court Of Kerala

Case No : O.P. (MACT) . No. 1659 of 2012

K. Ramanathan APPELLANT

Vs

Oriental Insurance Co. Ltd. RESPONDENT

Date of Decision : 22-06-2012

Acts Referred:

Citation : (2012) 4 KLJ 845

Hon'ble Judges : K. Surendra Mohan, J

Bench : Single Bench

Advocate : K. Mohanakannan, A.R. Pravitha, D.S. Thushara and Rashmi Ravindran, for the Appellant; V.P.K. Paniker and George Cherian, for the Respondent

Final Decision : Allowed

Judgement

K. Surendra Mohan, J.—This writ petition is filed challenging Ext. P5 order of the Motor Transport Claims Tribunal, Thrissur in I.A. No. 1602 of 2012 in O.P. (MV) No. 1099 of 2004. The wife of the petitioner was killed in a motor accident that took place on 1.04.2004. As legal heirs of the deceased, the petitioner who is her husband, two male children and her mother filed O.P. (MV) No. 1099 of 2004 claiming compensation. As per common award Ext. P1, the claim was allowed and an amount of Rs. 6,88,300/- (Rupees Six Lakhs Eighty Eight Thousand Three Hundred only) was awarded as compensation. One third share of each of the claimants in the said amount was directed to be deposited in a fixed deposit with a nationalized bank for a period of three years. Accordingly, the amount is lying in fixed deposit. The sons of the petitioner are now aged 30 years and 25 years respectively. The mother-in-law of the petitioner is aged 82 years. They have all executed Ext. P2 Power of Attorney in favour of the petitioner. The petitioner filed I.A. No. 1602 of 2012 before the Motor Accident Claims Tribunal, Thrissur for a direction permitting him to withdraw the entire amount remaining in the fixed deposit, as per the directions of the above case. As per Ext. P5 order, the application submitted by the petitioner has been dismissed. The Tribunal has proceeded to dismiss the application of the petitioner for the reason that since the petitioner has requested for getting the entire amount released, his request is not bonafide. The reasoning appears to be absolutely untenable. According to him, the amount is required for the purpose of purchasing an item of immovable property 20 cents in extent. He has already entered into an agreement to purchase the property on 24.02.2012 and paid an amount of Rs. 10,00,000/- (Rupees Ten Lakhs only) as advance. The term of the agreement was to expire on 30.04.2012. He has sought release of the entire fixed deposit amount of Rs. 8,95,125/- (Eight Lakhs Ninety Five Thousand One Hundred and Twenty Five only) in a situation where he was hard pressed for money to complete the sale transaction. The court below has failed to notice that the parties are all persons who have attained majority and that no minor''s interest are involved, that required protection. None of the claimants are also persons who have suffered any injury necessitating continuous medical treatment incurring expenditure. The parties are educated. There are no circumstances indicating that orders of the court are necessary to preserve the award amount. The parties being educated and fully capable of taking informed decisions are certainly within their rights to decide how best to utilize their financial resources. Therefore, there is nothing wrong in the parties deciding to invest the award amount in an item of immovable property. The power to direct the award amount to be retained in fixed deposit is intended to protect the interests of the claimants and not to prevent them from utilizing their financial resources in a manner beneficial to their interests. The court below has not taken note of the above crucial aspects while dismissing the application filed by the petitioner. This is a tit case to which the petitioner''s application should have been allowed.

For the above reasons, this writ petition is allowed. Ext. P5 is set aside. I.A. No. 1602 of 2012 is allowed.

