

(2003) 09 P&H CK 0028
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 4268 of 2003

Smt. Beero Devi and Others	Vs	APPELLANT
The Oriental Insurance Co. Ltd. and Others		RESPONDENT

Date of Decision : 12-09-2003

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2004) 2 ACC 38 : (2004) ACJ 1835 : (2004) 136 PLR 261

Hon'ble Judges : Virender Singh, J

Bench : Single Bench

Advocate : Ajit Atri, for the Appellant;

Final Decision : Allowed

Judgement

Virender Singh, J.—Smt. Beero Devi widow of Raj Pal and her four minor children were awarded a compensation of Rs. 7,38,320/- with interest at the rate of 9% per annum in their claim petition decided by learned Motor Accident Claims Tribunal, Karnal on 7.2.2003. It was ordered in the said award that share of the widow shall be deposited in a nationalised bank for a period of three years and she would be entitled to withdraw the same after the expiry of the said period. The share of other four minors was also ordered to be deposited in the Fixed Deposit Receipts in some nationalised bank and they would be entitled to withdraw the same on attaining their majority. (Photo copy of the award has been produced by the learned counsel).

2. Beero petitioner moved an application for withdrawal of the amount and the same stands disposed of by learned M.A.C.T. vide order dated 7.2.2003. Hence, this petition for modification of the order.

3. Learned counsel for the petitioner has stated at the bar that no stay has been granted by the High Court in an appeal by the Insurance company and that even otherwise the Insurance Company has not filed any objection in the execution proceedings pending before the learned tribunal. He then contended that whole

of the amount now stands deposited by the Insurance Company.

4. In the light of the above said situation, I intend to dispose of the present revision petition without even calling the Insurance company because the order passed in the instant petition, in my view, would not affect the rights of the Insurance Company at all as the money already stands deposited.

5. Smt. Beero is now praying for the release of FDR No. 4348750 lying in her name in the Union Bank of India at Karnal. The said FDR is of the amount of Rs. 1,80,928/-the share of compensation awarded to her. This FDR is for three years. (Photo copy of FDR is produced in Court by the learned counsel).

6. Learned counsel for the petitioner contends that Smt. Beero is in dire need of financial help as she has no source of income to run household expense. It is further submitted that she needs this money to meet the expenses of the education of the minor children or for their day to day requirements. For this reason, the prayer is made that at least the amount which stands in the name of Smt. Beero be released enabling her to use the same.

7. Learned counsel in support of his contentions has relied upon a judgment of Apex Court rendered in H.S. Ahammed Hussain v. Irfan Ahammed 2002(3) R.C.R. 563, in which it has been held by their Lordships that deposit of compensation in Fixed Deposit Schemes is not proper in the case of adults. In the said case, the parents of the deceased were paid their share of compensation in cash and it was directed that in case the money is already deposited in the nationalised bank, the premature withdrawal can be made by the party.

8. In my view the judgment rendered in H.S. Ahammed Hussain's case (supra) squarely covers the case of Smt. Beero petitioner. Consequently, it is ordered that on an application by Smt. Beero, the concerned Bank Official would release FDR No. 438750 which is in the name of Smt. Beero as premature withdrawal and the cash amount alongwith interest accrued till date would be given to her.

9. However, it is made clear that the amount already deposited in the nationalized bank in the name of the four minor children of Smt. Berro would remain intact till they attain the age of majority or in between any order is passed by any competent court for its release.

The present petition is disposed of accordingly.