(2010) 06 UK CK 0014

In the Uttarakhand High Court

Case No : Writ Petition No. 728 of 2010 (M/S)

Smt. Chandrakali — APPELLANT

Vs

The Oriental Insurance Company Ltd. and Others — RESPONDENT

Date of Decision : 30-06-2010

Acts Referred:

Citation : (2011) 2 UC 1139

Hon'ble Judges : V.K. Bist, J

Bench : Single Bench

Advocate : Ramji Srivastava, for the Appellant; Pankaj Purohit, for the Respondent

Final Decision : Allowed

Judgement

V.K. Bist, J.—Present writ petition has been filed by the Petitioner for quashing the order dated 24.02.2010 passed by the learned Additional District Judge/FTC IV, Dehradun in MACP No. 150 of 2008, ''Smt. Chandrakali @ Mona v. The Oriental Insurance Co. Ltd. and Ors''. The Petitioner has further sought a writ of mandamus directing the learned Motor Accident Claims Tribunal, Dehradun to permit the Petitioner to withdraw the money deposited in F.D.R. for a period of three years.

2. Brief facts of the case, as narrated in the writ petition, are that the Petitioner/ claimant filed a Motor Accident Claims Petition No. 150 of 2008, ''Smt. Chandrakali @ Mona v. The Oriental Insurance Co. Ltd. and others'', before Motor Accident Claims Tribunal/District Judge, Dehradun, for the award of compensation of Rs. 10,20,000/- against the Defendants/Respondents on account of death of her son Vinod Kumar in a motor accident which took place at about 8.30 a.m. on 11.06.2008 near Truck Union Office, Selakui. On that day the deceased was going to Selakui Factory from his village by Vikram Regn. No. U.P. 07 F/4971. At about 8.30 a.m. the driver of the Vikram stopped his vehicle on the left side of road near Truck Union Office. Then a JCB Regn. No. HR 30 F/0270, whose driver was running the vehicle in rash and negligent manner, with

high and excessive speed, dashed to the parked Vikram, in which the deceased was travelling. The deceased was taken to Govt. Hospital Sahaspur, where the doctors declared him as dead. The aforesaid claim petition was pending in the Court of FTC IInd, Dehradun and the learned Presiding Officer was not available for a long time. So the matter could not be disposed of. As the Petitioner was in urgent need of money, so the matter was compromised in Lok Adalat for a mere sum of Rs. 3,00,000/-. It is stated in the petition that on 09.11.2009, the learned District Judge, as per the compromise, partly allowed the claim petition filed on behalf of claimant/Petitioner and awarded the compensation to the tune of Rs. 3,00,000/- in favour of claimant/Petitioner against the Defendant/ Respondent No. 1 i.e. Insurance Company of the offending vehicle along with 7.5% per annum interest on the amount of compensation from the date of filing of the claim petition before the Claim Tribunal. The learned District Judge further directed to invest Rs. 1,50,000/- in FDR in favour of the Petitioner for a period of 3 years in Punjab National Bank and remaining amount was directed to be paid in cash to the Petitioner.

3. On 23.12.2009, the Petitioner moved an application before the learned District Judge, Dehradun stating therein that the F.D.R. for the sum of Rs. 1,50,000/- made in her favour for 3 years vide order dated 09.11.2009 may be allowed to be withdrawn, as the Petitioner is in urgent need of money for the purpose of constructing her house. But, the learned Additional District Judge/FTC IV, Dehradun vide order dated 24.02.2010, dismissed the said application filed by the Petitioner, holding that there is no sufficient reason for premature withdrawal of F.D.R. in favour of the Petitioner. He submitted that the learned Tribunal has erroneously passed the order dated 24.02.2010 without keeping in mind the bonafide need of the Petitioner that she is in urgent need of money for the purposes of construction of her house.

4. I have heard Shri Ramji Srivastava, learned Counsel for the Petitioner and Shri Pankaj Purohit, learned Counsel for the Respondents and perused the record.

5. Placing reliance on the judgment rendered by the Hon''ble Apex Court in the case of H.S. Ahammed Hussain and Anr. v. Irfan Ahammed and Anr. reported in II (2002) ACC 575 (SC), the learned Counsel for the Petitioner submitted that the learned Tribunal should have allowed the application filed by Petitioner for withdrawing the sum invested in the form of F.D.R. Learned Counsel for the Petitioner further placed reliance in the judgment of this Court in the case of Roshan Lal v. Motor Accident Claims Tribunal and Ors. reported in 2004 (1) UD 655.

6. I have perused the citations relied on by the learned Counsel for the Petitioner. In H.S. Ahammed Hussain''s case (supra) the Hon''ble Apex Court has held that amount of compensation should not be kept in fixed deposit in a nationalized Bank and if the amount is already deposited, premature withdrawal should be permitted. Paragraph 7 of the judgment is reproduced below:

"Learned Counsel for the Appellant lastly submitted that the amount of compensation payable to mothers of the victims should not have been directed to be kept in fixed deposit in a nationalised Bank. 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. In case the amounts have not been already invested, the same shall be paid to the mothers, but if, however, invested by depositing the same in fixed deposit in a nationalised Bank, there may be its premature withdrawal in case the parties so intend."

7. Similar view is taken in the case of Roshan Lal''s (supra) 2004 (1) U.D. 655.

8. In this case neither the Petitioner is minor nor is co-claimant with her children. She is the sole claimant. Money belongs to her and she is entitled to use that money in the way she likes. She has asked for premature withdrawal of F.D.R. for urgent need of money for which she is entitled to. The reason shown by her is found sufficient to allow the application. Person in need realizes the actual value of money. If money is not paid in time, and is kept in a Bank, the same may be a waste paper for that person. In any case, a person who is owner of money, is entitled to receive that in time.

9. In view of above discussion, the writ petition is allowed, order dated 24.02.2010 passed by the learned Additional District Judge/FTC IV, Dehradun in MACP No. 150 of 2008, ''Smt. Chandrakali @ Mona v. The Oriental Insurance Co. Ltd. and others'' is set aside. Court concerned is directed to permit premature withdrawal of F.D.R. in favour of the Petitioner.

10. No order as to costs.

