

**(2013) 05 MP CK 0121**

**In the Madhya Pradesh High Court**

**Case No : Writ Petition No. 9089 of 2013**

Smt. Geeta Patel and Others

APPELLANT

Vs

Chandrakishore Rajput and Others

RESPONDENT

**Date of Decision : 17-05-2013**

**Acts Referred:**

Motor Vehicles Act, 1988 — Section 166

**Citation : (2013) 05 MP CK 0121**

**Hon'ble Judges : Rajendra Menon, J**

**Bench : Single Bench**

**Advocate : P.K. Sahu, for the Appellant;**

**Final Decision : Allowed**

## **Judgement**

Rajendra Menon, J.—Petitioners are legal representatives of Late Deena Nath Patel. Petitioner No. 1 is wife, petitioner No. 2 is the minor daughter and petitioner Nos. 3 and 4 are parents of Late Deena Nath Patel. Deena Nath Patel died in a road accident and, therefore, a claim was filed u/s 166 of the Motor Vehicle Act. The claim was decided vide award dated 11.2.2013 ? Annexure P/1 and an award of Rs. 8,02,600/- was passed. Out of this amount, a sum of Rs. 1,00,000/- was directed to be paid to petitioner Nos. 3 and 4, the parents of Late Deena Nath Patel. A sum of Rs. 3,00,000/- was directed to be paid to petitioner No. 2 Ku. Prapati Patel, minor daughter; and, the remaining amount of Rs. 3,02,600/- was directed to be paid to petitioner No. 1, wife of Late Deena Nath Patel. A sum of Rs. 1,00,000/- was paid to petitioner No. 1 and the remaining amount was directed to be kept in a fixed deposit. It is the case of the petitioners that on 5.4.2013, petitioner Nos. 1, 3 and 4 entered into a joint agreement with one Shri Laxmi Narayan Dwivedi, for the purpose of purchasing 0.89 Hectares of land vide Agreement ? Annexure P/2, and an advance of Rs. 50,000/- was paid. The amount of sale as per the agreement was fixed at Rs. 4,80,000/- and accordingly it was agreed to between the parties that the further amount of Rs. 4,30,000/- shall be paid on or before 6.5.2013. It was stated that if the amount

is not paid by the said date, the agreement would be terminated and the amount of Rs. 50,000/- paid shall be forfeited. On the ground that petitioners 1, 3 and 4 are required to pay the amount of Rs. 4,30,000/-, an application was submitted by them for withdrawing their share of the compensation, which was deposited in a fixed deposit account, the said application having been rejected, petitioners are before this Court.

2. As far as petitioner No. 2 Ku. Prapati Patel is concerned, learned counsel made a statement that the amount lying in her fixed deposit account i.e. Rs. 3,00,000/- (Rupees Three Lacs) is not proposed to be withdrawn and to that extent the amount can continue to remain in the fixed deposit of petitioner No. 2, till she attains majority. The remaining persons have attained majority and they pray for withdrawal of the amount for the reasons as indicated hereinabove.

3. I have learned counsel for the petitioners and perused the order passed by the trial court. The trial court on inquiry has not recorded any finding to the effect that the agreement entered into is false or a fabricated document, nor does the trial court come to the conclusion that the amount is not required for any genuine purpose. The trial court has rejected the application only on the ground that in the agreement the rate of the property in accordance to the Collector rate and other documents are not established and, therefore, the amount is refused to be released.

4. This approach of the trial court is not proper. The petitioners were in requirement of the amount for payment in accordance to the agreement and if the agreement is perused it is clear that non-payment of the amount by the due date would render them liable to forfeit the amount of Rs. 50,000/-, already advanced. There being no material to show that the petitioners are seeking withdrawal of the amount for a just cause or there being nothing to show that the agreement has been entered into only to withdraw the amount, I see no reason to deny the prayer made in the writ petition as failure to do so would result in loss to the petitioners to the tune of Rs. 50,000/-.

5. Shri Pramod Sahu, learned counsel for the petitioners, submitted that even though the agreement was to be complied with by 6.5.2013, but after filing of this writ petition an extension of 15 days have been given and if the amount is not paid by the said date, the petitioners would lose Rs. 50,000/- advanced in accordance to the agreement.

6. Taking note of the totality of the circumstances, as is indicated hereinabove, and considering the fact that petitioner Nos. 1, 3 and 4 are majors and have sought for release of the compensation amount for reasons, which seem to be just and reasonable, I see no reason to disallow the prayer.

7. Accordingly, this petition is allowed. The amount of Rs. 1,00,000/- lying in the fixed deposit account of petitioners 3 and 4; and, the remaining amount of Rs. 2,20,600/- lying in the fixed deposit account of petitioner No. 1 are directed to be withdrawn, to be utilized by them as prayed for.

8. With the aforesaid, the petition stands allowed and disposed of. Certified copy as per rules.