

(2015) 07 AHC CK 0167

In the Allahabad High Court

Case No : Matters Under Articles 227 No. 3439 of 2015

Suneel Kumar Seth

APPELLANT

Vs

Iffco Tokeo General Insurance Company Ltd. and Others

RESPONDENT

Date of Decision : 22-07-2015

Acts Referred:

Citation : (2015) 5 ALJ 342

Hon'ble Judges : Manoj Kumar Gupta, J

Bench : Single Bench

Advocate : L.K. Pandey, for the Appellant

Final Decision : Allowed

Judgement

Manoj Kumar Gupta, J—The petitioner has filed a claim petition before the Motor Accident Claims Tribunal for award of compensation on account of injuries sustained by him in a motor accident. The claim petition was allowed in part by the Motor Accident Claims Tribunal by an award dated 12.8.2014 and a sum of Rs. 4,67,000/- was awarded as compensation along with 7% interest per annum. The Motor Accident Claims Tribunal directed for disbursement of Rs. one lac to the petitioner and the remaining amount was to be kept in a fixed deposit for 10 years and the annual interest therefrom has to be released to the petitioner. The petitioner filed an application dated 18.3.2015 before the Motor Accident Claims Tribunal for release of the amount deposited in FDR i.e., Rs. 4,27,095/-. In the application, it was stated by the petitioner that in the accident in question he had sustained permanent injuries in his left leg and he was also operated upon. However, the operation had not been successful and the doctor has advised him for another operation. It is further stated in the application that since after the accident, the petitioner is unable to do any work and therefore, there is no source of income. In such circumstances, request was made to the Tribunal for release of a sum of Rs. 4,27,095/- which is in deposit with the bank. The Motor Accident Claims Tribunal rejected the application filed by the petitioner by the following order:--

(Vernacular Matter omitted... Ed.)

2. This court in the case of Smt. Farmoodi Vs. Additional District Judge and Others, (2013) 7 ADJ 340 : (2013) 5 ALJ 242 : (2013) 100 ALR 121 : (2014) 1 AWC 256 has clearly brought out the legislative intent in framing Rule 220B of the U.P. Motor Vehicles Rules, 1998. It has been held as under :--

"5. The purpose of keeping the amount in a fixed deposit is for a specific purpose. The Supreme Court in the case of General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, (1994) ACJ 1 : AIR 1994 SC 1631 : (1994) 107 PLR 1 : (1993) 4 SCALE 643 : (1994) 2 SCC 176 issued certain guidelines to the Claims Tribunal while awarding compensation. The said guidelines are extracted below:--

"(i). The claims Tribunal should, in the case of minors, invariably order amount of compensation awarded to the minor invested in long term fixed deposited 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 property such as agricultural implements, rickshaw, etc. to earn a living the Tribunal may consider such a request after making sure that the amount is 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 in (i) above unless it is satisfied for reasons to be stated in writing, that the whole or part of the amount is required for expending any 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 realization 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 claimant 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."

6. These guidelines have now been incorporated by the legislature and Rule 220-B of the U.P. Motor Vehicle Rules, 1998 have been inserted in the Rules.

9. The Supreme Court held that these guidelines were issued to keep the amount in a fixed deposit for a period of time was mandatory only in the case of minors, illiterate claimants and widows."

(Emphasis supplied by me)

3. A perusal of the impugned order would go to show that the Tribunal has rejected the application of the petitioner without adverting to the reasons disclosed therein. The order has been passed in a mechanical manner and without giving any reason whatsoever. Such an order cannot be sustained in law and is hereby set aside.

4. The matter is now remitted back to the Tribunal for fresh consideration of the application filed by the petitioner for release of the amount. The Tribunal is directed to decide the application keeping in mind the law laid down in the case of Smt. Farmoodi Vs. Additional District Judge and Others, (2013) 7 ADJ 340 : (2013) 5 ALJ 242 : (2013) 100 ALR 121 : (2014) 1 AWC 256 . The petition is allowed to the extent indicated above.