
(2013) 01 AHC CK 0132
In the Allahabad High Court
Case No : F.A.F.O. No. 248 of 2004

United India Insurance Co. Ltd.

APPELLANT

Vs

Pitambar Sharma and Others

RESPONDENT

Date of Decision : 15-01-2013

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2013) 1 AWC 586

Hon'ble Judges : Shashi Kant Gupta, J

Bench : Single Bench

Advocate : Nagendra Kumar Srivastava, for the Appellant; S.S. Tewari and Garun Pal Singh, for the Respondent

Judgement

Shashi Kant Gupta, J.—This application has been filed by the respondent No. 3 Smt. Rukmani Devi, wife of Lok Nath Sharma, for releasing 50% of the amount of the compensation deposited in the F.D.R. No. 346692 of Syndicate Bank. Zila Parishad, Mathura. This Court while passing the interim order dated 27.1.2004 had directed the appellant to deposit the entire amount of compensation before the concerned Motor Accident Claims Tribunal and claimants-respondents were made entitled to withdraw 50% of the total amount without furnishing security and the balance 50% of the amount only on furnishing security (other than cash or bank guarantee). It was further provided that in case balance amount is not withdrawn by the claimants-respondents on furnishing security within four months of the said deposit, the Tribunal shall invest the said amount in a Nationalized Bank in a Fixed Deposit Scheme.

2. For ready reference the order dated 27.1.2004 passed by this Court quoted herein below:

"Memo of appeal

Admit.

Issue notice to unserved respondents only by R.P.A.D. returnable at an early

date.

Stay Application

Issue notice to unserved respondents only by R.P.A.D. returnable at an early date. Appellant/s are directed to submit requisites for service within ten days from today. If requisites are submitted as stipulated above, the office shall despatch the notices within ten days of the receipt of the requisites.

Until further orders, operation of the impugned judgment and award dated 23.10.2003 passed by Motor Accident Claims Tribunal/Special Judge, Mathura in Motor Accident Claim Petition No. 246 of 2000, Pitamber Sharma and others v. United India Insurance Co. Ltd. and others, shall remain stayed, provided the same has not already been given effect to, subject to the taking steps as above and also subject to the following conditions:

(I) Appellant/s file/s a certified copy of this order before the concerned Tribunal within four weeks from today.

(II) Appellant deposits entire amount of compensation, subject-matter of the aforementioned award, with the concerned Motor Accident Claims Tribunal within two months from today. Amount already deposited in this Court u/s 173. Motor Vehicles Act. 1988 or otherwise towards compensation shall be duly accounted for before depositing the aforesaid entire amount.

(III) The Claimant/s shall be entitled to withdraw 50% of the total amount to be deposited, as stipulated above (including the amount deposited u/s 173. Motor Vehicles Act) without furnishing security and the balance 50% of the amount only on furnishing security (other than cash or bank guarantee).

(IV) It is further provided in case balance amount, is not withdrawn by the claimant/s on furnishing security without four months of the deposit, the Tribunal shall invest the said amount in a Nationalized Bank in Fixed Deposit Account for the period carrying maximum interest and also get them renewed (including principal and interest both) on maturity. It shall be subject to any order passed by this Court in future.

(V) In case of default of any of the above terms and conditions, this interim order shall automatically lapse and appeal shall be deemed to be dismissed for non-prosecution.

(VI) Registry shall also ensure

(a) to requisition and procure the original record before the next date of listing.

(b) to remit the amount deposited u/s 173, Motor Vehicles Act in the High Court to the concerned M.A.C.T. without four weeks from today.

(c) to submit comprehensive detail report regarding service etc. before the case is next listed.

(d) list stay application before Court immediately after three months.

It is, however, open for the concerned parties to settle their dispute out side Court.

3. Learned counsel for the respondents has stated in his affidavit filed in support of the aforementioned application that no amount as compensation was withdrawn by the claimants-respondents, therefore, the concerned Motor Accident Claims Tribunal deposited the 50% of the total amount, which was directed to be released in favour of the claimants-respondents without security in a Fixed Deposit being F.D.R. No. 346692 of Syndicate Bank, Zila Parishad, Mathura and balance 50% amount which was directed to be released in favour of the claimants-respondents with security is also lying in the account of District Judge/Motor Accident Claims Tribunal, Mathura and till date the claimants-respondents have only received some interest on the said F.D.R., which is about 15,000. It has been stated that claimant-respondent No. 3 being an illiterate lady could not know about the order passed by this Court, as such, the amount of compensation as directed by this Court has not been withdrawn by her. It has been further stated that the claimant-respondent No. 3 moved an application before the lower Tribunal for releasing 50% of the amount without security as directed by this Court, however, the said application was rejected by the lower Tribunal on the ground that the entire original record of the case has already been transmitted to the High Court, as such no order can be passed for want of original record of the case.

4. Heard learned counsel for the parties and perused the record.

5. Office is directed to remit the lower court record forthwith to the lower Tribunal.

6. Lower Tribunal is directed to release 50% of the amount, which is lying in the shape of F.D.R. in the Syndicate Bank, Zila Parishad, Mathura alongwith the interest accrued thereon to the claimant-respondent No. 3- Smt. Rukmani Devi, wife of Lok Nath Sharma forthwith after receipt of the lower Court record. It is further directed that the amount, which is lying in the account of District Judge/Motor Accident Claims Tribunal, Mathura be also invested in a Nationalized Bank in Fixed Deposit Account for the period carrying maximum interest and also get them renewed (including principal and interest both) on maturity. It shall be subject to any order passed by this Court in future.

7. After payment of the amount to the claimant-respondent No. 3 as provided herein above, the original record of the case may again be sent back to this Court. With these observations, the application stands finally disposed of.