

Anmol Verma (Minor) vs Motor Accident Claim Tribunal/ ... on 11 April, 2018

Equivalent citations: AIRONLINE 2018 ALL 5515, AIRONLINE 2018 ALL 183

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Bench: Vivek Kumar Birla

HIGH COURT OF JUDICATURE AT ALLAHABAD

AFR

Court No. - 30

Case :- WRIT - C No. - 11926 of 2018

Petitioner :- Anmol Verma (Minor)

Respondent :- Motor Accident Claim Tribunal/ District Judge Etawah And Another

Counsel for Petitioner :- Ansar Ahmad,Rajneesh Tripathi

Counsel for Respondent :- Ajay Shankar

Hon'ble Vivek Kumar Birla,J.

Heard Sri Rajneesh Tripathi, learned counsel for the petitioner, Sri Ajay Shankar, learned counsel appearing on behalf of respondent No.2.

Present petition has been filed for setting aside the impugned order dated 10.09.2015 passed by M.A.C.T./A.D.J., Court No.1, Etawah in Misc. Application No.51 of 2015 related to M.A.C.P. No.26 of 2012 (Smt. Solly Verma Vs. Murari Lal Sharma) and it has been further prayed to issue any suitable order or direction for releasing the amount of F.D.R. No.30500310009451 of UCO Bank, Etawah in favour of petitioner through his natural guardian mother Smt. Solly Verma.

The petitioner-Anmol Verma (Minor) and Smt. Solly Verma had filed claim petition before the tribunal claiming compensation for the death of one Komal Verma. Smt. Solly Verma claimed herself to be the widow wife of the Komal Verma. Parents of Komal Verma, namely, Amar Singh and Smt. Manju also filed separate claim petition. Both the claim petitions were consolidated by the tribunal. while deciding issue Nos.5, 6 and 7 it was found that although a divorce petition under Section 13A of the Hindu Marriage Act was pending between Komal Singh and Smt. Sunita Verma; however, it was not proved by Smt. Solly Verma that divorce/judicial separation had actually taken place between them and that she is legally wedded wife. of late Komal Verma. Smt. Solly Verma and late Komal Verma had given birth to one child (the petitioner herein 'Anmol Verma'). Therefore, the consolidated petitions being MACP No.26 of 2012 and 505 of 2012 were decided by an award dated 03.02.2015 by providing that Amar Singh and Smt. Manju (parents of the deceased) were entitled for Rs.1,00,000/- each. Smt. Sunita Verma, who continue to be legally wedded wife of Komal Verma, was entitled for Rs.50,000/-. The balance amount was awarded in favour of the Anmol Verma (Minor) (Petitioner herein) and it was further directed that fixed deposit be made in favour of Anmol Verma under the protection of Smt. Solly Verma.

An application was filed by Smt. Solly Verma claiming release of the amount of the fixed deposit. That application was disposed of by the impugned order by providing that the sum of Rs.3,35,290/- (which apparently included the interest amount also) be kept in a fixed deposit for a period of 14 years in favour of Anmol Verma. Thus, the release of the amount, in another words, was refused.

Placing reliance on judgment of Hon'ble Apex Court in the Case of A.V. Padma and others Vs. R. Venugopal and others 2012 (3) SCC 378 and judgment of this Court in Smt. Nasreen and another Vs. U.P. State Road Transport Corporation and another decided on 22.04.2013, submission of learned counsel for the petitioner is that the petitioner is entitled for release of the amount and withdrawal of the amount so deposited and that early encashment of the amount cannot be objected by any party.

I have considered the submission and perused the record.

On perusal of the record it is very much clear that the petitioner-Anmol Verma (Minor) was taken as son of deceased-Komal Verma but Smt. Solly Verma could not prove that late Komal Verma has, in fact, divorced Sunita Verma and thus, admittedly, the divorce petition has not attained finality.

I have perused the judgments relied upon by the learned counsel for the petitioner. In paragraph 5 of the judgment in A.V. Padma and others Vs. R. Venugopal and others (supra) a distinction has been drawn regarding release of the amount in case of minor, illiterate claimants, widow, semi literate and literate persons. Taking into account the judgment of Hon'ble Apex Court in the case of General Manager, Kerala State Road, Transport Corporation, Trivandrum Vs. Susamma Thomas and others, 1994 AIR (SC) 1631 it was observed that it needs to be clarified that above guidelines were issued by this Court only to safeguard the interest of the claimants, particularly minor, illiterates and others whose amount are sought to be withdrawn on some fictitious ground.

Guideline (I) laid down in the case of Sushamma Thomas clearly provides that in the case of minors, the court will invariably order amount of compensation awarded to the minor be invested in long term fixed deposit at least till the date of the minor attains majority. The expenses incurred by the guardian or next friend may however, be allowed to be withdrawn.

Vide notification dated 26.09.2011 (Eleventh Amendment) Rules 2011 the guidelines framed in Susamma Thomas (supra) were inserted in U.P. Motor Vehicle Rules, 1998. Rule 220-B of the Rules 1998 is also quoted as under:

"220-B. Securing the interest of Claimants - (1) Where any lump-sum amount of compensation, deposited with the claims Tribunal is payable to a woman or a person under legal disability; such sum may be invested, applied or otherwise dealt with for the benefit of the woman or such person during his disability in such manner as the Claims Tribunal may direct to be paid to any dependent of the injured or heirs of the deceased or to any other person whom the Claims Tribunal thinks best fitted to provide for the welfare of the injured or the heir of the deceased.

(2) Where any application made to the Claims Tribunal in this behalf or otherwise, the Claims Tribunal is satisfied that on account of neglect of the children on the part of the parents, or on account of the variation of the circumstances of any dependent, or for any other sufficient cause, an order of the Claims Tribunal as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependent is to be vested, applied or otherwise dealt with, ought to be varied, the Claims Tribunal may make such further order for the variation of the former order as it thinks just in the circumstances of the case.

(3) The Claims Tribunal shall, in the case of minor, order that amount of compensation awarded to such minor be invested in fixed deposits till such minor attains majority. The expenses incurred by the guardian or the next friend may be allowed to be withdrawn by such guardian or the next friend from such deposits before it is deposited:

Provided that the interest payable on such deposits may be allowed to be utilized for education, maintenance and development of the minor with the permission of the Claims Tribunal.

(4) The Claims Tribunal shall, in the case of illiterate claimants, order that the amount of compensation awarded be invested in fixed deposits for a minimum period of three years, but if any amount is required for effecting purchase of any movable or immovable property for improving the income of the claimant, the Claims Tribunal may consider such a request after being satisfied that the amount would be actually spent for the purpose and the demand is not a ruse to withdraw money.

(5) The Claims Tribunal shall, in the case of semi-literate person resort to the procedure for the deposit or award amounts setout in sub-rule (4) unless if is satisfied, for reasons to be recorded in writing that the whole or part of the amount is required for the expansion of any existing business or for the purchase of some property as specified and mentioned, in sub-rule (4) in which case the Claims Tribunal shall ensure that the amount is invested for the purpose for which it is prayed for the paid.

(6) The Claims Tribunal may in the case of literate persons also resort to the procedure for deposit of awarded amount specified in sub-rules (4) and (5) if having regard to the age, fiscal background and state of society to which the claimant belongs and such other consideration, the Claims Tribunal in the larger interest of the claimant and with a view to ensure the safety of the compensation awarded, thinks it necessary to order.

(7) The Claims Tribunal may, in personal injury cases, if further treatment is necessary, on being satisfied which shall be recorded in writing, permit the withdrawal of such amount as is necessary for the expenses of such treatment.

(8) The Claims Tribunal may, in the matter of investment of money, have regard to a maximum return by ways of periodical income to the claimant, deposit with public sector undertaking of the State or Central Government which offers higher rate of interest.

(9) The Claims Tribunal shall, in investing money, direct that the interest on the deposits be paid directly to the claimants or the guardian of the minor claimants by the institution holdings the deposits under intimation to the Claims Tribunal."

The guidelines issued in the case of Sushamma Thomas (supra) were taken note by this Court in Smt. Nasreen and another Vs. U.P. State Road Transport Corporation and another (supra) and it has been noticed these guidelines has been incorporated by the legislature and Rule 220-B has been inserted in the Uttar Pradesh Motor Vehicle Rules, 1998.

Under such circumstances it is very much clear that the law has been settled that case of a minor stands on a different footing than that of a literate person.

In both the cases relied on by learned counsel for the petitioner benefit of release was granted in favour of the persons who were quite literate and specific ground was given for premature encashment/release of the amount.

Under such circumstances, when in the present case, release is being sought by Smt. Solly Verma, such prayer for release/encashment of FDR cannot be granted.

I find no illegality in the order impugned herein. The petition stands dismissed.

However, the petitioner if so advised, is at liberty to move fresh application for release of the interest payable on such deposit for utilization for education, maintenance and development of minor in view of proviso to Rule 220-B(3) of the U.P. Motor Rule, 1998 which provides that the interest payable on such deposits may be allowed to be utilized for education, maintenance and development of the minor with the permission of the Claims Tribunal.

Order Date :- 11.4.2018 Nitin Verma