

Edward Vs. the Divisional Manager

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Court : Kerala

Decided On : Oct-22-2013

Judge : Honourable Mr.Justice K.Vinod Chandran

Appellant : Edward

Respondent : The Divisional Manager

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN TUESDAY, THE 22D DAY OF OCTOBER 2013 30TH ASWINA, 1935 OP (MAC).No. 1580 of 2013 (O) ----- PETITIONER(S): ----- D.EDWARD, AGED 52 YEARS, S/O.DEVADASAN, VADAKKE MUDAVETHU VILAKAM VEEDU, 8 MARUTHATHOOR, CHAIKKOTTUKONAM P.O., NEYYATTINKARA. BY ADVS.SRI.S.M.PRASANTH SMT.SMITHA GEORGE RESPONDENT(S): ----- THE DIVISIONAL MANAGER, NATIONAL INSURANCE CO. LTD., SOUNDARYA BUILDING, PULIMOODU, THIRUVANANTHAPURAM - 695 101. BY SRI.AGI JOSEPH BY SRI.M.A.GEORGE THIS OP (MAC) HAVING BEEN FINALLY HEARD ON 22-10-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: OP (MAC).No. 1580 of 2013 (O) ----- APPENDIX PETITIONER(S)' EXHIBITS ----- EXHIBIT P1: TRUE COPY OF THE AWARD DATED 248/2012 IN OP(MV) NO.2014 OF 2014 OF 2005 ON THE FILE OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, NEYYATTINKARA. EXHIBIT P2:

TRUE COPY OF THE PETITION DATED 63/2013 SUBMITTED BY THE PETITIONER BEFORE THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, NEYYATTINKARA. EXHIBIT P3: TRUE COPY OF THE

ORDER

DATED 73/2013 IN I.A NO.1100 OF 2013 IN OP(MV) NO.2014 OF 2005 //true copy// P.A.To Judge K.VINOD CHANDRAN, J - - - - - OP(MAC). 1580 of 2013 - - - - - Dated this the 22nd day of October, 2013 - - - - -

JUDGMENT

The petitioner was the injured in an accident which occurred on 08.09.2005. He suffered grievous injuries in the accident and was hospitalised for a period of time and even after discharge, he was advised rest for a considerable period of time. In any event, suffice it to say that a claim petition was filed and by Ext.P1 Award in the year 2012, the Motor Accidents Claims Tribunal, Neyyattinkara, passed an order awarding Rs.94,300/- as compensation with interest at 9% per annum. The insurer was directed to produce crossed cheque for Rs.50,000/- in the name of the claimant and the balance amounts were directed to be deposited in a Nationalised Bank for two years. Obviously, such a direction was based on the guidelines laid down by the Honourable Supreme Court in the Kerala State Road Transport Corporation v. Susamma Thomas (1994 (2) SCC176. The said decision has been explained later by the Honourable Supreme Court in Padma OP(MAC).1580/2013 2 A.V and Others v. R.Venugopal and Others (2012 (3) SCC378 wherein the Honourable Supreme Court had held that the Tribunals should not mechanically order deposit of the compensation amount in long term fixed deposits as a matter of course without recording the reasons for making such orders. Due regard should be had to the age, fiscal and social background, literacy status etc, of the claimant when making such orders; to ensure that the amounts awarded are not frittered away. Deposit of amounts could be ordered in the case of minors, illiterates and others whose social status requires such a regulatory order and the larger interest of the claimant should be the guiding factor. Thus, the Honourable Supreme Court had deprecated the rigid stand of various Tribunals while considering and disposing of the applications seeking release of money.

2. In the present case, it is to be noticed that the claimant itself was the person who suffered injury and it is evident from the Award that he had suffered permanent disability in the accident. The applicant is a 52 year old person and it cannot OP(MAC).1580/2013 3 be said that he is a person who is not able to look after himself nor is there any finding as to his social status warranting the Tribunal to pass regulatory orders. It is also pertinent that neither the Award nor the rejection of the application subsequently filed, reveals any reasons for keeping the money in a 'Fixed Deposit' with reference to the status of the applicant/claimant. In fact, the Honourable Supreme Court has laid down that the interest of the claimant is paramount and that should be the guiding principle in passing such orders.

3. In the above circumstances, this Court is of the opinion that there is no reason why the balance amount awarded as per Ext.P1 after payment of Rs.50,000/- to the petitioner is to be kept in a 'Fixed Deposit'. Ext.P3 order, hence, is set aside. There shall be a direction to the Motor Accidents Claims Tribunal, Neyyattinkara, to ensure payment of the amounts now deposited in a 'Fixed Deposit' after issuing directions to prematurely close the same. If interest has been paid by the Bank to the claimant on the 'Fixed Deposit', those amounts which the Bank would be entitled to recover on premature OP(MAC).1580/2013 4 closure of the 'Fixed Deposit', shall be recovered. The Original Petition is allowed. No costs. Sd/- K.VINOD CHANDRAN, Judge mrccs

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