

Asya Vs. Ratna E.V.

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Court : Kerala

Decided On : Mar-27-2014

Judge : Honourable Mr.Justice K.Vinod Chandran

Appellant : Asya

Respondent : Ratna E.V.

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN THURSDAY, THE 27TH DAY OF MARCH 2014 6TH CHAITHRA, 1936 O.P.(MAC).No.50 of 2014 (O) ----- AGAINST THE

ORDER

S IN I.A.NOS.2344/2013 & 2345/2013 DATED 25.06.2013 & I.A.NOS.4635/2013 & 4636/2013 DATED 02.12.2013 IN O.P.(MV).NOS.373/2007 OF PRINCIPAL MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOZHIKODE. -----

PETITIONER(S): ----- 1. ASYA, AGED 57 YEARS, MOTHER OF DECEASED M.ABDUL RAHMAN, MULLANADAKKAL HOUSE, KARUMARKKAD AMSOM DESOM, VAZHAKKAD, ARAMAD TALUK, MALAPPURAM.

2. M.ALAVIKUTTY, AGED 63 YEARS, FATHER OF DECEASED M.ABDUL RAHMAN, MULLANADAKKAL HOUSE, KARUMARKKAD AMSOM DESOM, VAZHAKKAD, ARAMAD TALUK, MALAPPURAM. BY ADVS.SRI.K.M.FIROZ

SMT.M.SHAJNA SRI.S.KANNAN SMT.NEENU.P.KUMAR RESPONDENT(S):-

----- 1. RATNAE.V., W/O.SADANANDAN, ASHARAKANDIYIL HOUSE, CHELAVOOR P.O., KOZHIKODE - 673 017.

2. PRAVEEN KUMAR.O., AGED30YEARS, S/O.NARAYANAN, OTHAYAMANGALATH HOUSE, CHERUKULATHOOR P.O., KOZHIKODE - 673 527.

3. THE NEW INDIA ASSURANCE COMPANY LIMITED, DIVISIONAL OFFICE, TRIPTHI BUILDING, EAST NADAKAVU, KOZHIKODE - 673 011. R3 BY STANDING COUNSEL SRI.A.A.ZIYAD RAHMAN THIS ORIGINAL PETITION (MAC) HAVING COME UP FOR ADMISSION ON2703-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:- O.P.(MAC).NO.50 OF20140 APPENDIX PETITIONERS' EXHIBITS:- ----- EXT.P1 TRUE COPUY OF THE COMMON AWARD IN O.P.(MV).NO.373/2007 DATED1904.2008 OF PRINCIPAL MOTOR ACCIDENT CLAIMS TRIBUNAL, KOZHIKODE. EXT.P2 TRUE COPY OF THE COMMON

ORDER

DATED2506.2013 IN I.A.NOS.2344/2013 AND23452013 IN OP(MV).NO.373/2007 ON THE FILES OF PRINCIPAL MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOZHIKODE. EXT.P3 TRUE COPOY OF THE I.A.NO.4635/2013 IN OP(MV).NO.373/2007 FILED BEFORE THE PRINCIPAL MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOZHIKODE. EXT.P4 TRUE COPOY OF THE I.A.NO.4636/2013 IN OP(MV).NO.373/2007 FILED BEFORE THE PRINCIPAL MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOZHIKODE. EXT.P5 TRUE COPY OF THE COMMON

ORDER

DATED0212.2013 IN I.A.NOS.4635/2013 AND46362013 IN OP(MV).NO.373/2007 ON THE FILES OF PRINCIPAL MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOZHIKODE. RESPONDENTS' EXHIBITS:- ----- NIL. Vku/- (true copy) K. Vinod Chandran, J ----- O.P.(MAC).No.50 of 2014-O ----- Dated this the 27th day of March, 2014

JUDGMENT

The petitioners are the father and mother of one Abdul Rehman, who died in an accident. The petitioners herein along with the widow of their deceased son were before the Motor Accidents Claims Tribunal (for brevity "the Tribunal"), Kozhikode, claiming damages for the loss suffered on account of the death of the only breadwinner of the family. By Exhibit P1 award, the Tribunal awarded a total amount of Rs.10,01,824/- as compensation for the death of the petitioners' son. Rs.2,00,000/- was set apart to the share of the widow of the deceased. The balance amounts were apportioned to the share of the petitioners 1 and 2 equally. The Tribunal directed disbursement of Rs.50,000/- each from what was apportioned to the petitioners; and the balance thereon was directed to be kept in a Fixed Deposit. The Tribunal also specifically directed, considering the circumstances of the petitioners, that in the event of their daughters getting married, the petitioners would be entitled to seek disbursal of the amounts kept in Fixed Deposit. OP(MAC).No.50 of 2014-O - 2 - 2. Admittedly the petitioners have two daughters; and at the time of the marriage of the eldest daughter, Rs.2,00,000/- each was sought for and was released from the Fixed Deposits. Subsequently, at the time of the marriage of the younger daughter, again the petitioners approached the Tribunal for release of the entire amounts. The learned Tribunal by Exhibit P2 order directed release of only Rs.50,000/- each. The petitioners contend that in fact the amount now released by the Tribunal does not at all satisfy the needs of the petitioners insofar as the petitioners having taken huge loans for the marriage of the 2nd daughter. It is also submitted that both the petitioners are unemployed and are unable to even eke out their livelihood and, hence, the entire amounts be released. The petitioners also filed subsequent applications, which were dismissed by the Tribunal by Exhibit P5, finding that sufficient amounts have already been withdrawn.

3. It is trite that the Tribunals direct amounts, granted as compensation, to be preserved in Fixed Deposits only to see that the money is not frittered away and the claimants eventually are rendered penurious. The release of a portion of the amount as also OP(MAC).No.50 of 2014-O - 3 - the direction to deposit the balance amount in Fixed Deposit is following a decision reported in Kerala State

Road Transport Corporation v. Susamma Thomas [(1994) 2 SCC176. However, later the Hon'ble Supreme Court has clarified the position in A.V Padma and v. R.Venugopal [(2012) 3 SCC378, wherein the Hon'ble 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 Hon'ble Supreme Court had deprecated the rigid stand of various Tribunals while considering and disposing of the applications seeking release of money.

4. In the present case, it is to be noticed that both the petitioners are unemployed and illiterate. The petitioners have two OP(MAC).No.50 of 2014-O - 4 - more sons, who are aged 21 and 17. The circumstances of the petitioners does not commend this Court to disburse the entire amounts from the Fixed Deposits. It is also to be noticed that both the petitioners are aged and if the entire amounts are disbursed to them, the same would definitely be frittered away and the petitioners would have nothing to fall back upon in the coming years, especially in the circumstance of their advancing age. But, however, noticing the pathetic state of the petitioners and also the fact that at the earlier point of time the Tribunal had disbursed Rs.2,00,000/- each from the Fixed Deposits made by the petitioners and for the marriage of the 2nd daughter the Tribunal has thought it fit to disburse only Rs.50,000/- each, this Court is of the opinion that a further amount of Rs.1,50,000/- (Rupees one lakh and fifty thousand only) each, could be released from each of the deposits before the Tribunal. There shall be a direction accordingly to the Tribunal.

5. Since the Fixed Deposits are being in any way foreclosed, the Tribunal shall also direct the Bank to keep the Fixed Deposits for the minimum period for which the maximum interest is derived and have a lien on the same so as to ensure that without any OP(MAC).No.50 of 2014-O - 5 - orders from the Tribunal the money

shall not be released. The Bank shall also be directed to renew the deposits periodically, again keeping in mind that the period should be the minimum one, for which maximum interest is received. In the context of such renewal, the petitioners shall also be released the interest accruing in the Fixed Deposits on the period expiring and the principal amount shall alone be renewed for the coming years. Such renewals shall be only for the period prescribed in the original award. The Original Petition is disposed of as above. No costs. Sd/- K.Vinod Chandran Judge.
vku/- (true copy)

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