

**Narendra Debbarma and ors. Vs. Narendra Singh and anr.**

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**SooperKanoon Citation :** [sooperkanoon.com/121284](http://sooperkanoon.com/121284)

**Court :** Guwahati

**Decided On :** Jul-20-1998

**Judge :** H.K. Sema, J.

**Acts :** [Motor Vehicles Act, 1939](#) - Sections 110B; [Constitution of India](#) - Article 226

**Appeal No. :** Civil Rule No. 233 of 1998

**Appellant :** Narendra Debbarma and ors.

**Respondent :** Narendra Singh and anr.

**Advocate for Pet/Ap. :** P. Deb, Adv.

**Prior history :** H.K. Sema, J. 1. Heard Mrs. P. Deb, learned counsel for the petitioners. 2. This application under Article 226 of the Constitution is rather peculiar and deserves to be disposed of at the motion stage the facts and circumstances recited in the petition. 3. The facts leading to filing of the present writ petition may be briefly recited. Writ petitioners are the claimants in Case No. TS (MAC) 162 of 1997 disposed of by the Claims Tribunal on 19-3-1998. By the aforesaid judgment and award

**Judgement :**

**H.K. Sema, J.**

1. Heard Mrs. P. Deb, learned counsel for the petitioners.

2. This application under Article 226 of the Constitution is rather peculiar and deserves to be disposed of at the motion stage the facts and circumstances recited in the petition.

3. The facts leading to filing of the present writ petition may be briefly recited.

Writ petitioners are the claimants in Case No. TS (MAC) 162 of 1997 disposed of by the Claims Tribunal on 19-3-1998. By the aforesaid judgment and award the learned claims tribunal disposed of the claim petition awarding Rs. 2,06,000/- in favour of the petitioners. Following the principle laid down by the Apex Court rendered in General Manager, Kerala State Road Transport Corporation, Trivandrum v. Susamma Thomas, AIR 1994 SC 1631, the Tribunal also directed that 90% of the share of Smt. Mangaleswari Debbarma, petitioner No. 2, Smt. Kajal Debbarma, petitioner No. 3 to be invested in a long term fixed deposit scheme of a Nationalised Bank. The Bank Manager also directed not to allow any loan or advance on that amount and only the monthly interest which will be accrued on the invested amount should be paid to the investor. Petitioners are aggrieved by this part of the award directing to be deposited in a Nationalised Bank 90% of the shares of the two petitioners.

4. At this stage for proper disposal of this case in hand, it would be necessary to refer to the direction of the Apex Court in Mrs. Susamma

Thomas (AIR 1994 SC 1631) (supra). The case in hand is squarely covered by the direction No. (ii) of paragraph 17 reads:

(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 are quest after making sure that the amount is actually spent for the purpose and the demand is riot a rouge to withdraw money:'

5. The need for withdrawal of the awarded compensation in lump sum has been recited in

paragraph 8 of this writ petition. Paragraph 8 reads:

'For that the Insurance Company did not deposit the amount to be paid till today. The claimants are tribal women. They are residents of a remote village namely Bairagipara under Sidhai Police Station. Said village is within a disturb extremist area. Always they are facing troubles from extremist. Due to death of deceased all are in a hard condition as the deceased is the only earning member of the family. Now they have no source of income for livelihood. They think for making arrangement for establishment. They want to purchase of an agricultural land to earn a living. It will be better arrangement for live. Hence the learned Tribunal is to be directed to pay the full amount to the claimant petitioners immediately. It is to be mentioned that mother of the deceased became blind.'

6. Whether the petitioners require a lump sum amount for making necessary purchase of agricultural implements and the immovable property as recited in paragraph 8 being the question of facts, this Court is not in a position to decide whether the writ petitioners/claimants are really in dire need of lump sum amount for investment by way of purchase of agricultural land to earn living. This question can Only be decided by the learned Claims Tribunal after examining the application that may be filed by the claimants and after making proper enquiry with regard to the factual position on the ground and even after examining some witnesses if need be.

7. In the facts and circumstances stated above, this writ petition is disposed of with a direction to the petitioners/claimants to file an application before the learned Tribunal stating the reasons therein necessitating the withdrawal of lump sum amount of compensation granted by the Tribunal and on such application being filed the learned Tribunal shall examine the application if necessary by adducing evidence and proper verification allow or reject the application as deem fit and proper. The learned Tribunal shall dispose of such application within a period of two months from the date of receipt of application and for that the claimants shall give full cooperation to the Tribunal in arriving at a just

decision.

With the aforesaid direction, this writ petition is closed.

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