

Sudha Agnihotri Vs. Motor Accident Claims Tribunal/Additional District Judge, Court-4 and ors.

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Court : Allahabad

Decided On : Oct-19-2005

Reported in : I(2006)ACC11

Judge : V.K. Shukla, J.

Appellant : Sudha Agnihotri

Respondent : Motor Accident Claims Tribunal/Additional District Judge, Court-4 and ors.

Judgement :

V.K. Shukla, J.

1. Petitioner's husband late Sarvesh Agnihotri met with an accident and died on spot. Aggrieved petitioner filed Claim Petition No. 226 of 2000, Smt. Sudha Agnihotri v. Chandra Mohan and Ors. Said claim petition was partly allowed and a sum of Rs. 1,75,200 (one lac seventy-five thousand two hundred) was awarded as compensation in favour of petitioner and others. Pursuant to said judgment Rs. 20,000 (twenty thousands) was released in favour of the petitioner and the remaining amount of Rs. 80,000 (eighty thousand) which was awarded to the petitioner was deposited in fixed deposit in nationalized Bank of Baroda. Petitioner's entire argument is that she has done beautician course from Mahila

Training Centre, Shastri Nagar, Kanpur and in this background on 13.7.2005 petitioner filed an application and requested Motor Accident Claims Tribunal for releasing of the said fixed deposit's amount in her favour. Said application has been rejected. At this juncture present writ petition has been filed.

2. Counsel for the petitioner submitted with vehemence that petitioner is graduate and very well aware of her interest and as petitioner has taken decision for opening a beauty parlour for which she needs fund then the claim of the petitioner ought to have been accepted instead of rejecting the same on surmises and conjecture, as such impugned order in question is liable to be set aside. In this connection reliance has been placed on the judgment of this Court in the case of Smt. Runna v. Vth Additional District Judge/Motor Accident Claims Tribunal Gorakhpur Civil Misc. Writ Petition No. 27782 of 1996, reported in II (1999) ACC 268 : 1998 (1) TAC 450.

3. Learned Standing Counsel representing Motor Accident Claims Tribunal on the other hand submitted that order passed is fully justifiable and no interference is warranted by this Court.

4. After respective arguments have been advanced undisputed position is that husband of the petitioner met with an accident and died. Claim petition of the petitioner and two others was allowed and as far as petitioner is concerned one lac of rupees was awarded to her out of which a sum of Rs. 20,000 has been paid and remaining eighty thousand has been invested in the fixed deposit. Award in question does not disclose as to in what way and manner said amount in question was to be paid; it merely mentioned that from the date of order aforesaid amount in question be paid with 8% simple interest. Petitioner is major and educated lady and has done beautician course from Mahila Training Centre, Shastri Nagar, Kanpur and she intends to settle herself, for which she has taken decision for opening a beauty parlour for which she needs funds. Apart from rupees eighty thousand she has got she has no other source of income. Petitioner intends to establish herself independently for which she has taken decision for opening beauty parlour. Petitioner is major and fully competent and capable to decide her future and as such withdrawal of the amount must be left at her will and as such at

this stage when petitioner took decision to start business for herself, it would be totally unfair to retain the said amount in the Nationalized Bank, in case petitioner would have been illiterate lady and could not understand her interest then position would have been different but here petitioner is well educated lady and understands her future.

5. In view of this fact in the present case order passed by the Motor Accident Claims Tribunal dated 5th August, 2005 refusing to grant permission to release the amount in question in favour of the petitioner is hereby quashed and set aside. Motor Accident Claims Tribunal is directed to grant permission to release the amount in question with interest due till date in favour of the petitioner within two months from the date of presentation of certified copy of this order. It is made clear that amount in question to be paid to the petitioner by way of account payee cheque in favour of the petitioner so that said amount is not diverted to hands of unscrupulous elements.

With the above direction present writ petition is allowed and disposed of.

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