

Radhamani Vs. State of Kerala

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Court : Kerala

Decided On : Feb-06-1995

Reported in : 1995ACJ1112; AIR1995Ker171

Judge : K. Narayana Kurup, J.

Acts : [Motor Vehicles Act, 1988](#) - Sections 141

Appeal No. : O.P. No. 18264 of 1994Y, 1995

Appellant : Radhamani

Respondent : State of Kerala

Advocate for Def. : N. Radhakrishnan, Adv.

Advocate for Pet/Ap. : H.C. Joseph, Adv.

Disposition : Petition allowed

Judgement :

ORDER

K. Narayana Kurup, J.

1. Heard counsel on both sides.

2. The husband of the petitioner in this Original Petition met with a fatal accident. The petitioner along with her three children filed O.P. (M.V.) 339 of 1991 before the Motor Accidents Claims Tribunal, Ernakulam claiming compensation for the death of her husband from the National Insurance Company Limited, Pollachi and others. The case was settled by the Insurance Company on the basis of the settlement reached between the Insurance Company and the claimants. The second respondent-Tribunal as per Exhibit P-1 award granted compensation of Rs. 80,000/- to the petitioner and her children. Out of Rs. 80,000/- the petitioner's share comes to Rs. 20,000/-. The sum of Rupees 60,000/- being the amount due to the children have already been disbursed by the Tribunal, so says the learned counsel for the petitioner. The complaint of the petitioner is that the second respondent-Tribunal unilaterally and without making any investigation into the matter, directed the sum of Rs. 20,000/-, being the amount apportioned towards the share of the petitioner shall be deposited with the additional third respondent, Andhra Bank on a five year fixed deposit plan as per Exhibit P-2 fixed deposit receipt. The petitioner filed Exhibit P-4 petition before the second respondent-Tribunal with a request to permit her to withdraw the amount of Rs. 20,000/- deposited in the Andhra Bank, but the tribunal rejected Exhibit P-4 stating that in view of the decision of the Supreme Court reported in K.S.R.T.C. v. Susamma Thomas, (1994) 1 Ker LT 67 : (AIR 1994 SC 1631) the petitioner is not entitled to refund of the amount before the expiry of five years from the date of deposit.

3. Having heard learned counsel for the petitioner, I am of the view that the amount awarded cannot be withheld to the petitioner relying on the decision of the Hon'ble Supreme Court referred to above. In fact that dismissal of the petitioner's application for releasing the amount will go against the very spirit of the Supreme Court decision, which is intended to safeguard the interest of minors, illiterate, semi-literate and literate persons by preventing wastage of funds by placing the amount in fixed deposit with a nationalised bank or other financial institutions. Usually when awards are passed in favour of an individual for fairly large amounts such amounts are like(sic) to be frittered away by him by spending the money on unproductive or counter productive ventures so that it may not be available to him on a future occasion when a real need arises. It is to meet such eventuality that the Hon'ble Supreme Court issued a direction that the amount would be kept in

deposit for a fixed period so that the amount will not be wasted away. Even the Supreme Court decision reserves liberty to the claimants to apply for withdrawal in case of emergency. Going by the Supreme Court judgment it cannot be said that the amount awarded shall be always kept in fixed deposit regardless of the facts and circumstances of the case.

4. The petitioner is admittedly 62 years old. She is literate but sickly and needs money emergently for her treatment and in such a situation to keep the money in deposit for a period of five years will result in manifest injustice. Interest of justice therefore requires directions to be issued to the additional third respondent to release the amount held by it under Exhibit P-2 fixed deposit receipt forthwith. Accordingly, I direct the additional third respondent, Andhra Bank, Ernakulam Branch (M.G. Road) to release to the petitioner the sum of Rs. 20,000/- as held by it as per Exhibit P-2 fixed deposit receipt within one week from today treating the amount as in current account savings account whichever is more advantageous to the petitioner. Original Petition is allowed as above.

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