

A.V. PADMA & ORS.

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v.

R. VENUGOPAL & ORS.

(Civil Appeal No. 1095 of 2012)

JANUARY 27, 2012.

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[CYRIAC JOSEPH AND T.S. THAKUR, JJ.]

MOTOR VEHICLES ACT, 1988:

Compensation – Disbursement of – Case of Susamma Thomas, explained – Held: Sufficient discretion has been given to the Tribunal not to insist on investment of the compensation amount in long term fixed deposit and to release even the whole amount in the case of literate persons – The guidelines were not to be understood to mean that the Tribunals were to take a rigid stand while considering an application seeking release of the money – The guidelines cast a responsibility on the Tribunals to pass appropriate orders after examining each case on its own merits – The prayer in the application of the appellants for release of the amount invested in long term deposits stands allowed – The entire amount of compensation shall be withdrawn and paid to the appellants.

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In a motor accident claim after the wife and two daughters of the deceased were awarded the compensation, they filed an application praying to disburse the entire amount to the decree-holders without insisting on deposit of any portion of the amount in any nationalized bank. The Tribunal rejected the prayer for release of the amount of Rs.2,00,000/- deposited in the nationalized bank. The High Court also dismissed the writ petition observing that the Tribunal had passed the impugned order keeping in mind the law declared by the Supreme Court in the case of *Susamma Thomas*.*

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A Allowing the appeal, the Court

B HELD:1.1. In the case of *Susamma Thomas, this Court issued certain guidelines in order to “safeguard the feed from being frittered away by the beneficiaries due to ignorance, illiteracy and susceptibility to exploitation”. Sufficient discretion has been given to the Tribunal not to insist on investment of the compensation amount in long term fixed deposit and to release even the whole amount in the case of literate persons. However, the Tribunals are often taking a very rigid stand and are mechanically ordering in almost all cases that the amount of compensation shall be invested in long term fixed deposit. It needs to be clarified that the guidelines were issued by this Court only to safeguard the interests of the claimants, particularly, the minors, illiterates and others whose amounts are sought to be withdrawn on some fictitious grounds. The guidelines were not to be understood to mean that the Tribunals were to take a rigid stand, ignoring the object and the spirit of the guidelines issued by this Court and the genuine requirements of the claimants. Even in the case of literate persons, the Tribunals are automatically ordering investment of the amount of compensation in long term fixed deposit. This has resulted in serious injustice and hardship to the claimants. Therefore, a change of attitude and approach on the part of the Tribunals is necessary in the interest of justice. [para 4 and 5] [441-C; 442-C-H; 443-C-D]**

G *General Manger, Kerala State Road Transport Corporation, Trivandrum v. *Susamma Thomas and Others*, AIR 1994 SC 1631, referred to.

H 1.2. In the instant case, neither the Tribunal in its award nor the High Court in its order enhancing compensation had directed to invest the amount of compensation in long term fixed deposit. The Insurance Company deposited the compensation amount in the

Tribunal on 7.1.2008. In the application filed by the appellants seeking withdrawal of the amount without insisting on investment of any portion of it in long term deposit, it was specifically stated that appellant no.1 was an educated lady who retired as a Superintendent of the Karnataka Road Transport; that appellant no. 2 was an M.Sc. degree holder and appellant no. 3 was holding Master Degree both in Commerce and in Philosophy; that they were well versed in managing their lives and finances. Appellant no. 1 was already aged 71 years and her health was not good. She required money for maintenance and also to put up construction on the existing house to provide dwelling house for her second daughter who was a co-owner along with her, but was stated to have been residing in a rented house paying exorbitant rent which she could not afford in view of the spiralling costs. In the facts and circumstances of the case, the Tribunal ought to have allowed the prayer of the appellants. The impugned orders of the Tribunal and the High Court are set aside. The prayer in the application of the appellants for release of the amount invested in long term deposits stands allowed. The entire amount of compensation shall be withdrawn and paid to the appellants without any further delay. [para 6 and 8] [443-E-H; 444-A, F-H]

Case Law Reference:

AIR 1994 SC 1631 referred to para 3

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1095 of 2012.

From the Judgment & Order dated 05.08.2008 of the High Court of Karnataka at Bangalore in Writ Petition No. 10405 of 2008.

Kiran Suri for the Appellants.

Debasis Misra for the Respondents.

A The Judgment of the Court was delivered by

CYRIAC JOSEPH, J. 1. Leave granted.

2. The appellants were the petitioners in Writ Petition No. 10405/2008 which was dismissed by the High Court of Karnataka as per order dated 5.8.2008 which is impugned in this appeal. Respondent Nos. 1 to 3 herein were respondent Nos. 1, 2 and 4 in the writ petition.

3. One T.S. Subrahmanyam met with a motor accident on 12.11.1991 and died on 21.7.1993 due to injuries sustained in the accident. Appellant No. 1 is the widow and appellant Nos.2 and 3 are the daughters of the said T.S. Subrahmanyam. In the claim petition filed by the appellants who are the legal heirs of T.S. Subrahmanyam, the Motor Accidents Claims Tribunal-I, Mysore (for short, "the Tribunal") passed an award granting Rs.60,000/- as compensation. In appeal, the High Court of Karnataka vide its order dated 6.7.2006 enhanced the amount of compensation to Rs.4,25,000/-. Respondent No. 3 - United India Insurance Co. Ltd. deposited in the Tribunal an amount of Rs.6,33,038/- on 7.1.2008. On 31.1.2008, the appellants filed an application before the Tribunal praying for release of the amount in deposit in favour of appellant No. 1, A.V. Padma. Appellants Nos. 2 and 3 filed affidavits stating that they had no objection to the payment of the amount to their mother A.V. Padma. However, the Tribunal directed to invest Rs.1,00,000/- each in long term deposits in favour of appellant Nos. 2 and 3 and to disburse only the balance amount to the appellants. The appellants filed a further application dated 19.6.2008 praying to disburse the entire amount to the decree-holders without insisting on deposit of any portion of the amount in any nationalized bank. However, by an order dated 28.6.2008, the Tribunal rejected the prayer for release of the amount of Rs.2,00,000/- deposited in the nationalized bank. Aggrieved by the order of the Tribunal, the appellants filed Writ Petition No. 10405 of 2008 in the High Court of Karnataka. The High Court dismissed the writ petition observing that the Tribunal

had passed the impugned order keeping in mind the law declared by the Supreme Court in *General Manger, Kerala State Road Transport Corporation, Trivandrum v. Susamma Thomas and Others*, AIR 1994 SC 1631. According to the High Court, the Tribunal only followed the judgment of the Supreme Court in letter and spirit. Challenging the order of the High Court this appeal has been filed. A
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4. In the case of *Susamma Thomas (supra)*, this Court issued certain guidelines in order to “safeguard the feed from being frittered away by the beneficiaries due to ignorance, illiteracy and susceptibility to exploitation”. Even as per the guidelines issued by this Court Court, long term fixed deposit of amount of compensation is mandatory only in the case of minors, illiterate claimants and widows. In the case of illiterate claimants, the Tribunal is allowed to consider the request for lumpsum payment for effecting purchase of any movable property such as agricultural implements, rickshaws etc. to earn a living. However, in such cases, the Tribunal shall make sure that the amount is actually spent for the purpose and the demand is not a ruse to withdraw money. In the case of semi-illiterate claimants, the Tribunal should ordinarily invest the amount of compensation in long term fixed deposit. But if the Tribunal is satisfied for reasons to be stated in writing that the whole or part of the amount is required for expanding an existing business or for purchasing some property for earning a livelihood, the Tribunal can release the whole or part of the amount of compensation to the claimant provided the Tribunal will ensure that the amount is invested for the purpose for which it is demanded and paid. In the case of literate persons, it is not mandatory to invest the amount of compensation in long term fixed deposit. The expression used in guideline No. (iv) issued by this Court is that in the case of literate persons also *the Tribunal may* resort to the procedure indicated in guideline No. (i), whereas in the guideline Nos. (i), (ii), (iii) and (v), the expression used is that *the Tribunal should*. Moreover, in the case of literate persons, the Tribunal may resort to the C
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- A procedure indicated in guideline No. (i) only if, having regard to the age, fiscal background and strata of the society to which the claimant belongs and such other considerations, the Tribunal thinks that in the larger interest of the claimant and with a view to ensure the safety of the compensation awarded, it is necessary to invest the amount of compensation in long term fixed deposit.

5. Thus, sufficient discretion has been given to the Tribunal not to insist on investment of the compensation amount in long term fixed deposit and to release even the whole amount in the case of literate persons. However, the Tribunals are often taking a very rigid stand and are mechanically ordering in almost all cases that the amount of compensation shall be invested in long term fixed deposit. They are taking such a rigid and mechanical approach without understanding and appreciating the distinction drawn by this Court in the case of minors, illiterate claimants and widows and in the case of semi-literate and literate persons. It needs to be clarified that the above guidelines were issued by this Court only to safeguard the interests of the claimants, particularly the minors, illiterates and others whose amounts are sought to be withdrawn on some fictitious grounds. The guidelines were not to be understood to mean that the Tribunals were to take a rigid stand while considering an application seeking release of the money. The guidelines cast a responsibility on the Tribunals to pass appropriate orders after examining each case on its own merits. However, it is seen that even in cases when there is no possibility or chance of the feed being frittered away by the beneficiary owing to ignorance, illiteracy or susceptibility to exploitation, investment of the amount of compensation in long term fixed deposit is directed by the Tribunals as a matter of course and in a routine manner, ignoring the object and the spirit of the guidelines issued by this Court and the genuine requirements of the claimants. Even in the case of literate persons, the Tribunals are automatically ordering investment of the amount of compensation in long term fixed deposit without

recording that having regard to the age or fiscal background or the strata of the society to which the claimant belongs or such other considerations, the Tribunal thinks it necessary to direct such investment in the larger interests of the claimant and with a view to ensure the safety of the compensation awarded to him. The Tribunals very often dispose of the claimant's application for withdrawal of the amount of compensation in a mechanical manner and without proper application of mind. This has resulted in serious injustice and hardship to the claimants. The Tribunals appear to think that in view of the guidelines issued by this Court, in every case the amount of compensation should be invested in long term fixed deposit and under no circumstances the Tribunal can release the entire amount of compensation to the claimant even if it is required by him. Hence a change of attitude and approach on the part of the Tribunals is necessary in the interest of justice.

6. In this case, the victim of the accident died on 21.7.1993. The award was passed by the Tribunal on 15.2.2002. The amount of compensation was enhanced by the High Court on 6.7.2006. Neither the Tribunal in its award nor the High Court in its order enhancing compensation had directed to invest the amount of compensation in long term fixed deposit. The Insurance Company deposited the compensation amount in the Tribunal on 7.1.2008. In the application filed by the appellants on 19.6.2008 seeking withdrawal of the amount without insisting on investment of any portion of the amount in long term deposit, it was specifically stated that the first appellant is an educated lady who retired as a Superintendent of the Karnataka Road Transport Corporation, Bangalore. It was also stated that the second appellant Poornachandrika is a M.Sc. degree holder and the third appellant Shalini was holding Master Degree both in Commerce and in Philosophy. It was stated that they were well versed in managing their lives and finances. The first appellant was already aged 71 years and her health was not very good. She required money for maintenance and also to put up construction on the existing

- A house to provide dwelling house for her second daughter who was a co-owner along with her. The second daughter was stated to be residing in a rented house paying exorbitant rent which she could not afford in view of the spiralling costs. It was further stated in the application that the first appellant was
- B obliged to provide a shelter to the first daughter Poornachandrika. It was pointed out that if the money was locked up in a nationalised bank, only the bank would be benefited by the deposit as they give a paltry interest which could not be equated to the costs of materials which were ever
- C increasing. It was further stated that the delay in payment of compensation amount exposed the appellants to serious prejudice and economic ruin. Along with the application, the second and third appellants had filed separate affidavits supporting the prayer in the application and stating that they
- D had no objection to the amount being paid to the first appellant.

7. While rejecting the application of the appellants, the Tribunal did not consider any of the above-mentioned aspects mentioned in the application. Unfortunately, the High Court lost sight of the said aspects and failed to properly consider

E whether, in the facts and circumstances of the case, there was any need for keeping the compensation amount in long term fixed deposit.

8. Having regard to the facts and circumstances of the

F case and in view of the uncontroverted averments in the application of the appellants referred to above, we are of the view that the Tribunal ought to have allowed the prayer of the appellants. Hence the impugned orders of the Tribunal and the High Court are set aside. The prayer in the application of the

G appellants for release of the amount invested in long term deposits stands allowed. The entire amount of compensation shall be withdrawn and paid to the appellants without any further delay. The appeal is allowed in the above terms. There will be no order as to costs.

H R.P.

Appeal allowed.