

**(2007) 01 AHC CK 0075****Allahabad High Court****Case No:** None

Smt. Neelam Saxena, Ankit  
Saxena, Km. Neelima Saxena and  
Km. Shilu Saxena

**APPELLANT****Vs**

State of U.P., The District Judge,  
The Motor Accident Claim  
Tribunal, Mahoba/Second  
Additional District Judge and  
National Insurance Company  
Ltd.

**RESPONDENT****Date of Decision:** Jan. 8, 2007**Citation:** (2008) 6 AWC 5706 : (2007) 2 AWC 1747 : (2007) 5 RCR(Civil) 675**Hon'ble Judges:** S.N. Srivastava, J**Bench:** Single Bench**Final Decision:** Disposed Of

### **Judgement**

S.N. Srivastava, J.

Impugned herein is the order dated 10.11.2004 passed by respondent No. 3 on the Misc. Application dated 13.4.2004 filed by petitioner No. 1 for payment of the difference of interest in M.A.C Case No. 40 of 1998 which may have accrued to them under the Fixed Deposit Scheme.

2. It would appear from the record that by means of award dated 30.6.1998, the Motor Accident Claims Tribunal arrayed as respondent No. 3 in the instant petition awarded a sum of Rs. 4,17,500/- payable by National insurance Company arrayed as respondent No. 4 attended with direction that the amount falling in the shares of petitioners 2,3 and 4 shall be deposited in Fixed Deposit Scheme and for a fixed period. It would further transpire that in compliance of directions of the Court, the National Insurance Company deposited the entire amount alongwith interest in the account of District Judge. It would further appear that Instead of depositing the

amount in Fixed Deposit Scheme as directed by the Tribunal, and the High Court the office of the District Judge Mahoba, credited the said amount in saving Bank Account of the District Judge Mahoba. It would further transpire that the aforesaid award was challenged in appeal before this Court and this Court vide its judgment dated 19.1.2004, dismissed the appeal and directed release of the entire amount within three months. Consequently, it would further transpire, the entire amount was released in favour of the petitioners. Subsequently, the petitioners moved an application before the Motor Accident Claims Tribunal/District Judge Mahoba demanding interest accruing under the term deposit scheme on the amount in terms of directions of the Tribunal which was to the effect that the amount would be deposited in Fixed Deposit scheme. The aforesaid application was rejected upon perusal of the report submitted by the Sadar Munsarim. It is this order which is impugned herein.

3. I have heard learned Counsel for the parties. The learned Counsel for the petitioners urged that the petitioners are entitled to get interest in terms of directions contained in the award passed by Motor Accident Claims Tribunal which enjoined that the amount so deposited by the National Insurance Company would be fixed in the Fixed Deposit Scheme and by this reckoning, it is further urged, the petitioners are entitled to interest as may have accrued to him on the amount under the Fixed Deposit Scheme.

4. This Court by means of order dated 27.10.2006 passed the following order.

By the order dated 4<sup>th</sup> October, 2006, this Court directed learned Standing Counsel to seek instructions about the payment of interest accrued on the balance amount directed to be deposited in the Term Deposit Scheme.

Learned Standing Counsel states that Rs. 39,982/= are already in deposit in the Account as interest. Petitioner may withdraw the same. He further states that on the basis of a report submitted by the concerned Munsarim of Judgeship, the balance amount could not be deposited in the Term Deposit Scheme as directed by the Court. He seeks and is granted one month's further time to seek instructions and to take appropriate steps in this regard.

Learned Standing Counsel shall also get calculated the difference of the interest between the interest on the amount deposited in Savings Account and the interest if the amount would have been deposited in the Term Deposit Scheme.

As urged by the learned Standing Counsel that Rs. 39,982/= towards interest is in deposit, the petitioner No. 1 is permitted to withdraw the amount on behalf of all, the petitioner in accordance with law.

In case, learned Standing Counsel applies for a certified copy of this order, the same may be issued as per High Court Rules. 27.10.2006

5. In compliance of the aforesaid order, an affidavit sworn to by one Ashok Kumar Verma Addl. District Judge Mahoba has been filed. It has been averred therein that a sum of Rs. 41376/- has already been withdrawn by the petitioners on the strength of order dated 27.10.2006. In para 6 of the affidavit, it has been averred that as per report received from Branch Manager, State Bank of India Mahoba Branch, in case the amount under the award had been deposited in the Fixed Deposit Scheme, the interest accrued there-from would have been to the tune of Rs. 1,01,389/- while the simple interest under the Saving Scheme comes to Rs. 41,376/- which has already been withdrawn by the petitioners. According to further averments, the difference of interest between the two scheme is to the tune of a sum of Rs. 60,013/-.

6. As stated supra, it brooks no dispute that it was enjoined by the award that the amount deposited by the National Insurance company aforesaid would be deposited in the Fixed Deposit Scheme for a fixed period. No cause not to speak of any cogent and plausible cause has been assigned either in the affidavit filed on behalf of the District Judge Mahoba or any such cause is apparent from any materials on record. The only plea which finds mention in para 7 of the counter affidavit is that such amount was not deposited in the Fixed deposit Scheme due to clerical mistake. It is beyond comprehension that despite direction of the Motor Accident Claims Tribunal as embodied in the Award, how the amount was credited to the Saving Bank Account being operated in the Bank by the District Judge Mahoba. The lapsus in this regard is too patent to be ignored and needs thorough probe by the District Judge. Ex-facie, the failure to deposit the amount under Fixed Deposit Scheme due to clerical mistake has resulted in pecuniary loss to the petitioners which in the facts and circumstances, needs to be recompensed. In this connection, it is directed that the District Judge Mahoba shall initiate enquiry and fix responsibility for the lapses resulting from clerical mistake as stated in para 7 of the counter affidavit. The official who may be found to have committed mistake in this regard shall be made liable for payment of the difference which comes to Rs. 60,013/- The enquiry aforesaid shall be completed within 3 months from the date of production of a certified copy of this order and thereafter, the difference of interest shall be paid to the petitioner No. 1 within two months next thereafter from the salary or other sources as the case may be, of the official who is found guilty of mistake/lapses

7. As a result of foregoing discussion and upon regard being had to the materials on record, the Court is of the view that the petitioners are entitled to get difference of the interest which has been calculated and fixed to the tune of Rs. 60,013/. As stated supra, the enquiry shall be completed within three months from the date of receipt of a certified copy of this order and the aforesaid amount shall be paid to the petitioner No. 1 within two months next thereafter.

8. The petition is disposed of finally in terms of the above directions. The District Judge shall file compliance report by 6.7.2007. The matter is ordered to be listed on

7.7.2007 for further orders.