

(1996) 03 AP CK 0011

Andhra Pradesh High Court

Case No: Civil Revision Petition No. 838 of 1996

A. Munaswamy Naidu

APPELLANT

Vs

J. Ananda and Another

RESPONDENT

Date of Decision: March 19, 1996

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 115

Citation: (1996) 2 ACC 167 : (1996) 1 ALT 973

Hon'ble Judges: Motilal B. Naik, J

Bench: Single Bench

Advocate: Noushad Ali, for the Appellant;

Judgement

Motilal B. Naik, J.

The petitioner, an injured person filed MVOP No. 1336 of 1993 on the file of the District Judge-cum-Motor Accidents Claims Tribunal, Chittoor seeking appropriate compensation.

2. The O.P. was decided on merits by an order dated 6-4-1994 awarding a compensation of Rs. 90,000/- together with interest at the rate of 12% per annum from the date of petition till the date of realisation. The court while awarding the above compensation had also directed that the amount could be kept in fixed deposit for a period of five years and the petitioner was permitted to withdraw the costs and interest accrued thereon from the date of filing of the petition to the date of deposit and was also permitted to withdraw the periodical interest. The court while disposing of the O.P. had also permitted the petitioner to move a petition if any further amount is need for medical purposes.

3. The petitioner being an injured person aged about 64 years filed OEP No. 12 of 1995 in MVOP No. 1336 of 1993 pursuant to which the respondents deposited the monies as directed by the Tribunal below.

4. The petitioner further felt that he needs the entire amount for the purpose of undergoing medical treatment in CMC Hospital, Vellore and therefore filed an application in E.A.No. 1031 of 1995 before the Tribunal seeking permission to withdraw the entire amount of Rs. 90,000/- which was deposited by the respondents pursuant to the award by the lower court. In the said application it was averred by the petitioner that he is aged about 64 years and requires the entire amount of Rs. 90,000/- which was deposited for the purpose of getting further treatment. In the said application, it was also averred by the petitioner as observed by the Tribunal itself while disposing of the MVOP that he could move an application whenever monies are needed for further treatment.

5. The Tribunal considering the request of the petitioner permitted only Rs. 10,000/- to be withdrawn from the amount deposited, which is questioned in this Revision Petition by contending that when it was brought to the notice of the court that the petitioner needs the entire amount for the purpose of undergoing treatment taking into consideration the age of the petitioner who is about 64 years, the Tribunal ought to have permitted the petitioner to withdraw the entire amount.

6. I have heard the learned counsel for the petitioner. The petitioner is an awardee of certain monies on account of injuries sustained by him in the accident which is the subject matter of claim petition before the Tribunal in MVOP No. 1336 of 1993. In the evidence let in by the petitioner, it was brought out that the petitioner had suffered hip injuries, as a result of which he cannot walk and attend to his regular business. The Tribunal has also found that the injuries are very fatal and further found that the petitioner cannot walk without the assistance of an attendant. The Tribunal considered the entire aspect and found that the petitioner needs specialised treatment and awarded an amount of Rs. 90,000/- with interest at the rate of 12% per annum.

7. When an application is filed by the petitioner-claimant seeking appropriate direction permitting him to withdraw the monies for the purpose of undergoing treatment, the Tribunal ought to have considered such request. Certain guidelines in this regard were issued by the Supreme Court in [General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others](#), Clause (vi) of the guidelines is in the following terms:

"In personal injury cases if further treatment is necessary the Claims Tribunal on being satisfied about the same, which shall be recorded in writing, permit withdrawal of such amount as is necessary for incurring the expenses for such treatment."

8. It is therefore intended by the Supreme Court in the said decision and obligated the claimant to file an application before the Tribunal and the Tribunal before whom such an application is filed seeking withdrawal of monies, were given discretion to pass appropriate order meeting the contingency.

9. In this case, admittedly, the petitioner is found to be 64 years old and found to be ineligible to walk independently. It is the finding of the Tribunal that the petitioner needs major treatment in specialised hospitals. Since the petitioner had filed an application seeking the entire amount to be withdrawn, the Tribunal, in my view, failed to exercise its discretion in a proper way. Probably the Tribunal felt that the Apex Court prevented the Tribunal to release the entire amount on the basis of an application. In fact, what the Supreme Court intended is to safeguard the interests of the claimants particularly the illiterate and minor claimants whose amounts are sought to be withdrawn on some fictitious grounds. Therefore, the responsibility is cast on the Tribunal by the Supreme Court to pass an appropriate order when an application is filed seeking withdrawal of Certain moneys.

10. The guidelines of the Supreme Court, in my view, shall not be understood to say that the Tribunals are to take a rigid stand when an application is filed seeking release of moneys. The tribunals are to examine each case on its own merits and pass appropriate orders including mat of permitting the entire amount to be withdrawn in a given circumstances.

11. The provision relating to award of compensation to the near dependants or the injured in accident cases, is a piece of welfare legislation. The legislature intended that suffer or the dependent need be compensated to some extent. The moneys awarded by the Tribunals are to be accordingly released in their favour without any embargo. However, Courts found certain irregularities in the system. Therefore, in order to safeguard the interests of the claimants, in particular minors and illiterates, certain guidelines have been framed by the Apex Court in the decision (1) cited supra. Had the Apex Court desired that money to be paid to the claimants only on completion of certain period, it would have said so. The Apex Court visualised the difficulties that would be faced by the claimants and therefore, permitted them to move an application seeking withdrawal of certain moneys deposited in their names. The Tribunals are given discretion to pass appropriate order in a given situation.

12. In the instant case, the petitioner is an injured person who is aged about 64 years, has filed the application seeking permission to withdraw the entire deposits for undergoing major treatment. The life expectancy of a person is uncertain. The petitioner who is aged 64 years sought permission to withdraw the entire amount for medical treatment. In such a situation, the Tribunal ought to have permitted the petitioner to withdraw the money.

13. As discussed above, I am inclined to say that the petitioner is entitled to withdraw the entire amount for the purpose of undergoing medical treatment.

14. Accordingly, the Tribunal is directed to permit the petitioner to withdraw the entire amount which the petitioner intends to use for the purpose of getting operated in C.M.C. Hospital, Vellore. Any amount of delay on the part of the Courts

in granting such relief may lead to causing further anxiety in the minds of the persons who are already victims of circumstances.

15. The Civil Revision Petition is allowed with the above direction. No costs.