

# GUJARAT HIGH COURT

Muljibhai

Vs.

United India Insurance Co. Ltd

Civil Appln. No. 1286 of 1982 (in First Appeal No. 775 of 1980)

(A.M. Ahmadi and R.C. Mankad, JJ.)

21.04.1982

## JUDGEMENT

### **A.M. Ahmadi, J.**

1. In Motor Accident Claim Application No. 453 of 1978 the Claims Tribunal at Nadiad awarded a sum of Rs. 14,000/- with proportionate cost and interest at 6% per annum from the date of the claim application till payment or realisation to the parents of the unfortunate victim of the accident. The Claims Tribunal further directed that the amount should be divided equally between the claimants. Against the said award made by the Claims Tribunal First Appeal No. 775 of 1980 has been preferred and the same has been admitted to hearing. In the said appeal on the Civil Application an ad interim stay was granted on condition that the appellants deposit the entire amount awarded by the Claims Tribunal in the Tribunal within four weeks from the said order. We were told by Mr. N.S.Desai, the learned Advocate appearing for the original claimants, that pursuant to the said order the amount of Rupees 14000/- together with interest and proportionate cost has been deposited in the Claims Tribunal. He, therefore, by this Civil Application moved on behalf of the original claimants seeks leave to withdraw the said amount deposited in the Claims Tribunal.

2. In this Civil Application, it is stated that the applicants original claimants are poor person and they are in need of money. However, their need has been spelt out. Applicant appears to know how to sign his name, but so far as applicant 2 is concerned, she has put her thumb mark which is not attested by any one. Both the applicants are Harijans and they appear to be illiterate persons. Admittedly, they are poor persons and, therefore, it is reasonable to infer that they must not have dealt with such a substantial amount like Rupees 14,000/- interest and cost at any point of time throughout their lives. It is, therefore, too much to expect any financial discipline in the lives of the present applicants. We should have thought that the Claims Tribunal ought to have made some provision for the investment of the amount awarded to them so that the same may not be

squandered away or lost to the applicants. In cases such as the present one the paramount consideration of the Claims Tribunal must be to protect the interest of such claimants so that the amount awarded to them by way of compensation serves the purpose and object of recompensing them for the loss occasioned by the tragedy of the accident. If the Tribunal fails to protect such claimants and if the amount awarded to them is frittered away the very object of awarding compensation will be defeated. One of the ways of protecting such applicants is to direct investment of the amount awarded to them so that they may receive a steady income from the investment and the corpus may remain intact.

3. We are distressed to note that Claims Tribunals do not realise that it is not sufficient to award compensation to the victim of the accident or his legal representatives, as the case may be, but it is also its duty to ensure that the amount awarded is not frittered away. It must be remembered that lump sum compensation is paid to the claimants who are either the victims of the accident or their legal representatives by applying an appropriate multiplier with a view to providing for his or their future. In other words, instead of spreading out the amount of compensation over a number of years having regard to the estimated future life span, as a measure of convenience, lump sum payment is ordered. If the whole or substantial part of the compensation money is paid to claimants who have never handled such huge amounts in their lives there is the danger of their frittering away the amount for want of fiscal discipline in their lives. If the amount is squandered away, which in all probability may happen, the socio-economic objective intended to be achieved by the award of compensation will be wholly defeated. We are, therefore, of the opinion that in such cases it is imperative on the Claims Tribunal to protect such claimants, no matter they are adults, by directing the investment of lump sum compensation awarded to them. We are, therefore, not impressed by Mr. Desai's submission that since another Division Bench had in another appeal arising out of the common award directed 50% of the amount to be paid without security and the remaining 50% after furnishing security to the satisfaction of the Tribunal, we should make the same order in this application also. The nature of the interim order to be made must depend on the facts and circumstances of each case. But we think that by and large, if the Claims Tribunals bear in mind the interest of the claimants and direct that substantial amount out of the compensation awarded to the claimants is deposited in a Scheduled Bank in a long term fixed deposit, the Tribunals will be rendering service to claimants many of whom may not have handled such substantial lump sums in their lifetime and may find themselves unable to decide how best they should deal with the amount awarded to them. We think that, if this fact is borne in mind by the Claims Tribunals, the claimants will be placed in a happier situation because they will receive a steady income on their investment with the corpus remaining intact.

4. We are, therefore, of the opinion that in the instant case also, instead of directing the Claims Tribunal to pay the amount deposited for payment to the applicants, the Claims Tribunal may be directed to invest the entire amount of Rs. 14,000/- together with interest in a long term fixed deposit of not less than 61 months in any Scheduled Bank with the arrangement that interest on the said deposit should be paid directly by the Bank every month to the applicants. The Claims

Tribunal will be at liberty to make investments in accordance with the order of apportionment made by it. The amount of cost awarded to the applicants may be paid to them without their furnishing security.

5. The Claims Tribunal while investing the said amount in long term fixed deposits will also take care to see that the corpus remains intact so that no loan or advance is permitted on the said fixed deposit to the applicants by the Bank without obtaining its express order in that behalf. The Bank issuing the fixed deposit receipt should endorse on the face of the receipt that no loan or advance should be granted on the strength of that receipt unless there is an express order of the Tribunal in that behalf. Similar note should be made in the bank records to rule out the possibility of obtaining a loan or advance by taking out a duplicate receipt. On the expiry of the period of 5 years, the Claims Tribunal will consider whether the fixed deposit should be further extended and if so, for what period.

6. Having regard to the fact that day in and day out thousands of rupees are paid by way of compensation to various categories of claimants, we think that before we part, we may indicate a few broad guidelines which the Claims Tribunals may follow while disposing of claim applications arising under the Motor Vehicles Act, 1939, to scotch complaints of misapplication of compensation money :-

(i) The Claims Tribunal should, in the case of minors, invariably order the amount of compensation awarded to the minor invested in long term fixed deposits at least till the date of the minor attaining majority. The expenses incurred by the guardian or next friend may however be allowed to be withdrawn;

(ii) In the case of illiterate claimants also the Claims Tribunal should follow the procedure set out in (i) above, but if lump sum payment is required for effecting purchases of any moveable or immovable property, such as, agricultural implements, rickshaw, etc., to earn a living, the Tribunal may consider such a request after making sure that the amount is actually spent for the purpose and the demand is not a ruse to withdraw money;

(iii) In the case of semi-literate persons the Tribunal should ordinarily resort to the procedure set out at (i) above unless it is satisfied, for reasons to be stated in writing, that the whole or part of the amount is required for expanding any existing business or for purchasing some property as mentioned in (ii) above for earning his livelihood, in which case the Tribunal will ensure that the amount is invested for the purpose for which it is demanded and paid;

(iv) In the case of literate persons also the Tribunal may resort to the procedure indicated in (i) above subject to the relaxation set out in (ii) and (iii) above, if having regard to the age, fiscal background and strata of society to which the claimant belongs and such other considerations, the Tribunal in the larger interest of the claimant and with a view to ensuring the safety of the compensation awarded to him thinks it necessary to so order;

(v) In the case of widows the Claims Tribunal should invariably follow the procedure set

out in (i) above:

(vi) 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;

(vii) In all cases in which investment in long term fixed deposits is made it should be on condition that the Bank will not permit any loan or advance on the fixed deposit and interest on the amount invested is paid monthly directly to the claimant or his guardian, as the case may be;

(viii) In all cases Tribunal should grant to the claimants liberty to apply for withdrawal in case of an emergency. To meet with such a contingency, if the amount awarded is substantial, the Claims Tribunal may invest it in more than one Fixed Deposit so that if need be one such F.D.R. can be liquidated.

7. These guidelines are not exhaustive but are merely illustrative.

8. A copy of this order may be placed before the Honorable the Chief Justice for his direction to circulate the same to all the Claims Tribunals.

Order accordingly.