



**FAO-4331-2024 (O&M) and
other connected cases**

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of decision : 12th of September, 2024

- 124 FAO-4331-2024 (O&M)
Kamaljit Kaur and others vs. Union of India
- 125 FAO-4332-2024 (O&M)
Snehal Swaraj vs. Union of India
- FAO-4337-2024 (O&M)
Maninder Singh vs. Union of India
- FAO-4341-2024 (O&M)
Vishamber Dass vs. Union of India
- 126 FAO-4334-2024 (O&M)
Ashok Kumar and another vs. Union of India
- 127 FAO-4336-2024 (O&M)
Samim vs. Union of India
- 128 FAO-4338-2024 (O&M)
Balraj Singh vs. Union of India
- 129 FAO-4340-2024 (O&M)
Ramkhelawan Chauhan and others vs. Union of India
- 130 FAO-4342-2024 (O&M)
Om Parkash vs. Union of India
- 139 FAO-4333-2024 (O&M)
Rita Devi and others vs. Union of India
- 140 FAO-4335-2024 (O&M)
Vijay vs. Union of India

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Ujval Mittal, Advocate
for the petitioner(s) in all cases.

Mr. Akashdeep Singh, Advocate
for the respondent/IOI in FAO-4331-2024.



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Mr. Harneet S. Oberoi, Advocate and
Ms. Anmolpreet Kaur, Advocate
for the respondent/UOI in FAO-4332-2024 (through V.C.)

Mr. Bhasham Kumar Majoka, Advocate
for the respondent/UOI in FAO-4337-2024.

Mr. Lalit K. Gupta, Advocate
for the respondent/UOI in FAO-4341-2024.

Mr. Aseem Aggarwal, Advocate
for the respondent/Union of India in FAO-4334-2024.

Ms. Meher Nagpal, Advocate and
Mr. Yash Pal Sharma, Advocate
for the respondent/UOI in FAO-4336-2024.

Mr. Aseem Aggarwal, Advocate for
Mr. Prajwal Chauhan, Advocate
for the respondent/UOI in FAO-4338-2024.

Ms. Bhawna Thakur, Advocate
for the respondent/UOI in FAO-4340-2024.

Mr. Karan Bhardwaj, Advocate
for the respondent/UOI in FAO-4342-2024.

Mr. Ravi Kumar Indlia, Central Government Counsel
for the respondent/UOI in FAO-4333-2024.

Ms. Ayushi Sharma, Advocate
for the respondent/UOI in FAO-4335-2024.

PANKAJ JAIN, J. (ORAL)

CM-15862-CII-2024 in FAO-4331-2024

CM-15878-CII-2024 in FAO-4332-2024

CM-15907-CII-2024 in FAO-4337-2024

CM-15916-CII-2024 in FAO-4341-2024

CM-15884-CII-2024 in FAO-4334-2024

CM-15889-CII-2024 in FAO-4336-2024

CM-15910-CII-2024 in FAO-4338-2024

CM-15914-CII-2024 in FAO-4340-2024

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**CM-15922-CII-2024 in FAO-4342-2024
CM-15886-CII-2024 in FAO-4335-2024**

These are applications filed under Section 5 of Limitation Act seeking condonation of delay of 264 days (in FAO-4331-2024), 26 days in (FAO-4332-2024), 26 days (in FAO-4337-2024), 26 days (in FAO-4341-2024), 85 days (in FAO-4334-2024), 331 days (in FAO-4336-2024), 110 days (in FAO-4338-2024), 705 days (in FAO-4340-2024), 192 days in (FAO-4342-2024) and 140 (in FAO-4335-2024) in filing the instant appeals.

For the reasons recorded in the applications, this Court is satisfied that the applicants/appellants has made out a sufficient cause for condonation of delay.

Consequently, the present applications are allowed. Delay in filing the instant appeals is hereby condoned.

Main Appeals

In all these appeals, the claimants are aggrieved of the part of the award passed by the Railway Claims Tribunal whereby 90% of the compensation amount awarded by the Tribunal has been ordered to be invested in the Fixed Deposit for a period of three years.

2. This Court is flooded with these appeals as the RCT, Chandigarh Bench is passing similar directions in every case.

3. The issue of safeguarding the interest of the destitute who receive compensation in the claims has repeatedly concerned the Courts. Constitutional Courts have time and again issued guidelines invoking



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‘doctrine of *parens patriae*’. The Apex Court in the case of **Union Carbide Corporation vs. Union of India (1991) 4 SCC 584** approved of principles enunciated by Division Bench of Gujarat High Court in the case of **Muljibhai vs. United India Insurance Co. Limited (1982) 23 (1) Gujarat Law Reporter 756** governing disbursement of compensation amounts to the victims. The said principles were reiterated for disbursement of compensation to the victims in **Kerala State Road Transport Corporation vs. Susamma Thomas and others, 1994(2) PLR 01** and certain guidelines were issued to the Tribunals, which read as under:

- "(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 movable 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 rouse 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 and existing business or for purchasing some property as mentioned in (ii) above for earning his livelihood, in which



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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 do 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."

4. Judgment passed in *Muljibhai's* case (supra) was followed by a Full Bench Gujarat High Court in the case of **New India Insurance Co. Limited vs. Kamlaben and others, 1993(1) Gujarat Law Reporter 779**. The judgment passed by Full Bench of Gujarat High Court was subject

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matter of challenge before Apex Court in the case of **Lilaben Udesing Gohel vs. Oriental Insurance Company Limited and others, AIR 1996 Supreme Court 1605**. Apex Court considered the entire issue and approved the guidelines in Muljibhai's case (supra) observing as under :

“Before we part we must observe that even though the guidelines laid down in Muljibhai's case have been approved and applied by this Court in the aforementioned two cases, many Motor Accidents Claims Tribunals and even some of the High Courts in other parts of the country do not follow them. We are also told that in claims that are settled in or outside the Court or Tribunal, including Lok Adalats or Lok Nyayalayas, these guidelines are overlooked. We would like to make it absolutely clear that in all cases in which compensation is awarded for injury caused in a motor accident, whether by way of adjudication or agreement between the parties the Court/Tribunal must apply these guidelines. We must add one further guideline to the effect that when the amount is invested in a *fixed deposit*, the bank should invariably be directed to affix a note on the *Fixed Deposit* Receipt that no loan or advance should be granted on the strength of the said FDR without the express permission of the Court/Tribunal which ordered the deposit. This will eliminate the practice of taking loans which may be upto 80% of the amount invested and thereby defeating the very purpose of the order. We do hope that the Courts/Tribunals in the country will not succumb to the temptation of permitting huge withdrawals in the hope of disposing of the claim. We are sure that the Courts/Tribunals will realise their duty towards the victims of the accident so that a large part of the compensation amount is not lost to them. The very purpose of laying down the guidelines was to ensure the safety of the amount so that the claimants do not become victims of unscrupulous persons and unethical agreements or arrangements. We do hope our anxiety to protect the claimants

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from exploitation by such elements will be equally shared by the Courts/Tribunals".

5. The issue again was raised in the case of **H.S. Ahammed Hussain vs. Irfan Ahammed, 2002(3) RCR (Civil) 563**. Apex Court while dealing with the situation wherein the claimants were parents of the victims of accident observed as under:

“8. Learned Counsel for the appellant lastly submitted that the amount of compensation payable to mothers of the victims should not have been directed to be kept in fixed deposit in a nationalised bank. In the facts and circumstance of the present case, we are of the view that the amount of compensation awarded in favour of the mothers should not be kept in fixed deposit in a nationalised bank. In case the amounts have not been already invested, the same shall be paid to the mothers, but if, however, invested by depositing the same in fixed deposit in a nationalised bank, there may be its premature withdrawal in case the parties so intend.”

6. Similarly, in the case of **A.V. Padma and others vs. R. Venugopal and others, (2012) 3 SCC 378** Apex Court while explaining the objective behind keeping the compensation in Fixed Deposits observed as under :

“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



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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 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



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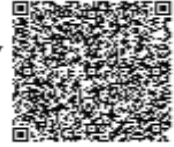
in the case of minors, illiterate claimants and widows and in the case of semi- literate and literate persons. It needs to be clarified that the above guidelines were issued by this Court only to safeguard the interests of the claimants, particularly the minors, illiterates and others whose amounts are 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



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and approach on the part of the Tribunals is necessary in the
interest of justice.”

(emphasis supplied)

7. The said issue still came up for consideration before Supreme Court in the case of **Kajal vs. Jagdish Chand (2020) 4 SCC 413**. While dealing with the issue of investment of the compensation awarded to the claimants and taking into account the guidelines issued by Apex Court in the case of **General Manager, Kerala State Road Transport Corporation’s** (supra) Apex Court observed as under :

“These guidelines protect the rights of the minors, claimants who are under some disability and also widows and illiterate person who may be deprived of the compensation paid to them in lump sum by unscrupulous elements. These victims may not be able to invest their monies properly and in such cases the MACT as well the High courts must ensure that investments are made in nationalised banks to get a high rate of interest. The interest in most cases is sufficient to cover the monthly expenses. In special cases, for reasons to be given in writing, the MACT or the trial court may release such amount as is required. We reiterate these guidelines and direct that they should be followed by all the tribunals and High Courts to ensure that the money of the victims is not frittered away.”

8. Following the ratio laid down in Kajal’s case (supra), Apex Court observed as under :

“14. After referring to those guidelines laid down in Sussama's case (supra) this court in Kajal's case observed thus:-



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"These guidelines protect the rights of the minors, the claimants who are under some disability and also widows and illiterate persons who may be deprived of the compensation paid to them in lump sum by unscrupulous elements. These victims may not be able to invest their monies properly and in such cases MACT as well the High Courts must ensure that investments are made in nationalised banks to get a high rate of interest. The interest in most cases is sufficient to cover the monthly expenses. In special cases, for reasons to be given in writing, MACT or the trial court may release such amount as is required. We reiterate these guidelines and direct that they should be followed by all the Tribunals and High Courts to ensure that the money of the victims is not frittered away."

15. In the said circumstances, while keeping intact the directions issued by the High Court regarding the investment of the amount awarded by it as per the impugned judgment, we think it proper to issue further directions, in regard to the investment of the additional amount of compensation granted as per this judgment. Since we have granted compensation in excess of what is claimed and the appellant had remitted court fee for the claim of Rs. 30 lakhs the appellant is liable to pay the balance court fee for the amount granted in excess of Rs. 30 lakhs. Therefore, the insurance company shall draw a cheque covering the balance court fee for the amount in excess of Rs. 30 lakhs awarded under this judgment and produce it before the MACT. In other words, the balance amount need be deposited to comply with the judgment before the MACT by way of two cheques, in which one should be for an amount of Rs. 15 lakhs. MACT shall keep the said amount of Rs. 15 lakhs in a *fixed deposit* in a nationalized bank, for a period of 5 years. The bank concerned shall not permit any loan or advance on the *fixed deposit* and the interest payable on this amount shall be released on quarterly basis and for the care of the appellant alone.



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After the period of 5 years the MACT shall keep renewing the said amount on such terms as it deems just and proper, for a further term of 5 years. The amount covered by the other cheque shall be released to the appellant, in accordance with the procedures as by now, the family must have incurred huge amount for the treatment of the appellant. The insurance company shall deposit the enhanced amount as above, within a period of 3 months from today.”

9. Thus, in view of aforesaid decisions, it is evident that the guidelines issued by Apex Court in the case of General Manager, Kerala State Road Transport Corporation’s *ibid*, were issued to protect the rights of the claimants, who are :

- a) the minors;
- b) under some disability; and
- c) widows and illiterate persons

i.e. those who apprehend threat at the hands of unscrupulous elements and lack fiscal discipline.

10. The guidelines are not to be interpreted like statute but need to be followed in a more pragmatic manner. The Tribunals are right in ordering investment of compensation in Fixed Deposits in the case where a claimant is prone to being robbed off the compensation awarded. Thus, the broad parameters that can be laid down are that the Tribunals should order Fixed Deposits only in those cases where:



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- (a) the claimant is a minor. From awarded compensation the share of the minor should be ordered to be invested in Fixed Deposits till he/she attains the age of majority or till the parents/guardians show pressing need to spend the amount for the benefit of minor;
- (b) where the claimant is a physically disabled person owing to some disability arising out of birth, injury or extremely old age and the Tribunal is satisfied that the claimant will not be able to protect his/her money from unscrupulous elements; and
- (c) where future treatment of the claimant needs to be taken care of by spending amount of compensation.

The list is merely illustrative and not exhaustive. In cases where claimants are major and there is no apprehension that they may fall prey to unscrupulous elements or touts/unethical arrangements etc., the amount need not be invested in Fixed Deposits.

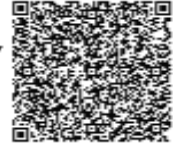
11. In view of aforesaid parameters laid down by this Court, the appeals are allowed. However, in appeals bearing bearing FAO Nos.4331 & 4333 of 2024, wherein the claimant(s) are minors and in view of the fact that their interest needs to be taken care of, the compensation amount of the minors is ordered to be kept in fixed deposits till he/she attains the age of



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majority or till the parents/guardians exhibit pressing need to take care of the expenses for the betterment of the minors.

12. A copy of this order be kept on the files of other connected cases.

September 12, 2024
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes

Whether reportable : Yes