09. 19.04.2019 This appeal u/s.30(1) of the Workmen's Compensation Act, 1923 is directed against the award dated 22.03.2016, passed by the Commissioner for Employee's Compensation and Assistant Labour Commissioner, Balasore, in E.C. Case No.03 of 2011.

The appellant has deposited the entire award amount before the Commissioner by way of a demand draft. An application was filed not to disburse the amount to the claimants till disposal of the appeal. Since no order of stay was passed by this Court, the entire amount has been disbursed after lapse of sixty days.

Several instances have been brought to the notice of this Court that the Commissioner disburses the entire award amount in favour of the claimants where no order of stay has been passed by this Court.

In *General Manager, Kerala State Road Transport Corporation, Trivandrum Vrs. Susamma Thomas (Mrs) and others*, (1994) 2 SCC 176, the apex Court issued guidelines to the Tribunals with regard to investment of the amount in long term fixed deposit in cases arising out of the motor accident claims. The apex Court held –

> "23. In a case of compensation for death it is appropriate that the Tribunals do keep in mind the principles enunciated by this Court in *Union Carbide Corpn. v. Union of India* in the matter of appropriate investments to safeguard the feed from being frittered away by the beneficiaries owing to ignorance, illiteracy and susceptibility to exploitation. In that case approving the judgment of the Gujarat High Court in *Muljibhai*

Ajarambhai Harijan v. United India Insurance Co. Ltd., this Court offered the following guidelines: (Guj LR pp. 759-60)

> "(i) The Claims Tribunal should, in the case of minors, invariably order the amount of compensation awarded to the minor be 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 The expenses incurred by the guardian or next friend may, however, be allowed to be withdrawn;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 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 and 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 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."

These guidelines should be borne in mind by the Tribunals in the cases of compensation in accident cases."

There is no reason as to why the principle enunciated in the case of *Susamma Thomas* (supra) shall not be applied in the cases arising out of Employee's Compensation Act.

Keeping in view the enunciation of law laid down in *Susamma Thomas* (supra), this Court directs the Commissioner to deposit 70% of the award amount in the name of the claimants in any Nationalized Bank for five years and disburse 30% to them in case of death. In case of injury, 50% of the amount shall be invested in a Nationalized Bank for a period of five years and rest 50% shall be disbursed to the claimant. The Commissioner shall keep in mind the ratio laid down in the case of *Susamma Thomas* (supra).

Commissioner-cum-Secretary, Labour and Employment Department, Government of Odisha shall issue appropriate notification in that regard.

A free copy of this order be handed over to Mr.R.P.Mohapatra, learned AGA for compliance.

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Dr.A.K.Rath, J.