

**HIGH COURT OF TRIPURA
AGARTALA**

I.A.05 of 2018 in MAC APP.95 of 2008

1. Smt. Sarojini Kalai,
wife of late Taramani Kalai

- 2(a). Mrs. Sarojini Kalai(Wife)
- 2(b). Sri Ashim Kumar Kalai(Son)
- 2(c). Sri Bina Rani Kalai(Son)
- 2(d). Sri Jayanta Kalai(Son)
- 2(e). Mrs. Drupati Kalai(Daughter)
- 2(f). Sri Pratush Kalai(Son)
- 2(g). Smt. Manimala Kalai,(Debbarma)(Daughter)
- 2(h). Smt. Rabi Kanya Kalai(Daughter in Law)
- 2(i). Sri Zeblun Kalai(Grand Son)
- 2(j). Smt. Martina Kalai(Grand Daughter)
- 2(k). Sri Jashua Kalai(Grand Son)

all are resident of Baishyamani Para, P.S. Ompi Nagar,
under South Tripura District

----Applicant(s)

Versus

The National Insurance Company Ltd.

---- Respondent(s)

Connected with

I.A.06 of 2018 in MAC APP.95 of 2008

1. Smt. Sarojini Kalai,
wife of late Taramani Kalai

2(a). Mrs. Sarojini Kalai(Wife)

2(b). Sri Ashim Kumar Kalai(Son)
son of late Taramani Kalai

2(c). Sri Bina Rani Kalai(Son)
son of late Taramani Kalai

2(d). Sri Jayanta Kalai(Son)
son of late Taramani Kalai

2(e). Mrs. Drupati Kalai(Daughter)
daughter of late Taramani Kalai

2(f). Sri Pratush Kalai(Son)
son of late Taramani Kalai

2(g). Smt. Manimala Kalai,(Debbarma)(Daughter)
daughter of late Taramani Kalai

2(h). Smt. Rabi Kanya Kalai(Daughter in Law)

wife of late Uttam Kalai

2(i). Sri Zeblun Kalai(Grand Son)
son of late Uttam Kalai

2(j). Smt. Martina Kalai(Grand Daughter)
daughter of late Uttam Kalai

2(k). Sri Jashua Kalai(Grand Son)
son of late Uttam Kalai

all are resident of Baishyamani Para, P.S. Ompi Nagar,
under South Tripura District

-----Applicant(s)

Versus

The National Insurance Company Ltd.

----- Respondent(s)

Connected with

I.A.07 of 2018 in MAC APP.95 of 2008

1. Smt. Sarojini Kalai,
wife of late Taramani Kalai

2(a). Mrs. Sarojini Kalai(Wife)
2(b). Sri Ashim Kumar Kalai(Son)
2(c). Sri Bina Rani Kalai(Son)
2(d). Sri Jayanta Kalai(Son)
2(e). Mrs. Drupati Kalai(Daughter)
2(f). Sri Pratush Kalai(Son)
2(g). Smt. Manimala Kalai,(Debbarma)(Daughter)
2(h). Smt. Rabi Kanya Kalai(Daughter in Law)
2(i). Sri Zeblun Kalai(Grand Son)
2(j). Smt. Martina Kalai(Grand Daughter)
2(k). Sri Jashua Kalai(Grand Son)

all are resident of Baishyamani Para, P.S. Ompi Nagar,
under South Tripura District

-----Applicant(s)

Versus

The National Insurance Company Ltd.

-----Respondent(s)

For Applicant(s) : Mr. S.B. Debnath, Adv.

For Respondent(s) : Mr. P. Gautam, Adv.

HON'BLE MR. JUSTICE S. TALAPATRA

Order

20/11/2018

Heard Mr. S.B. Debnath, learned counsel appearing for the applicants as well as Mr. P. Gautam, learned counsel appearing for the National Insurance Company Limited-respondent.

2. All these interlocutory applications are taken up together, even though, the averments are segmented by the individual applications, but the principle reliefs sought before the court is as regards withdrawal of the amount that has been deposited by the insurer respondent after the judgment and order dated 12.01.2015 passed in MAC.APP.95 of 2008.

3. Being aggrieved by the determination of the tribunal, the claimants preferred an appeal being MAC.APP.95 of 2008 which was allowed by the judgment and order dated 12.01.2015 by modifying the award from Rs.10,43,744/- to Rs.18,20,000/- with interest @ 7.5% per annum from the date of filing of the claim petition till the payment of the awarded amount. It appears from the records that the insurer-respondent deposited a sum of Rs.11,71,779/- in the tribunal and the claimants have received that amount in terms of the judgment and order of the tribunal, according to Mr. S.B. Debnath, learned counsel appearing for the legal representatives (LRs)/ claimants presently. Later on, in terms of the said judgment and order dated 12.01.2015, the National Insurance Company Limited has deposited another sum of Rs.13,86,680/- but the said amount has been kept in the designated account under the order of this court.

4. By I.A.No.05 of 2018, it has been asserted that the share of the said amount be disbursed to the claimants. Initially, when the claim petition was filed, the parents of the deceased victim who died in the motor accident filed the said claim. The parents are Sarojini Kalai and Taramani kalai.

5. Mr. S.B. Debnath, learned counsel appearing for the claimant-appellants has submitted that Taramani Kalai died on 13.01.2015 i.e. after passing of the said judgment and order dated 12.01.2015. Thus, the share of Taramani Kalai became estate and all his legal heirs/representatives (LRs) are entitled to get the share out of the said share from the said award. According to Mr. Debnath, learned counsel Taramani Kalai has left eleven legal heirs, out of them, four through his pre-deceased son. In support thereof, one survival certificate dated 05.12.2013 [Annexure-2 to the application being I.A. No.05 of 2018] has been produced in this court. Now, Mr. Debnath, learned counsel has submitted that the amount may be disbursed proportionately to the appellant namely Sarojini Kalai and the legal heirs of Taramani Kalai who are the applicants No.2(a), 2(b), 2(c), 2(d), 2(e), 2(f), 2(g), 2(h), 2(i), 2(j) and 2(k).

6. In the judgment passed by the tribunal no condition was imposed to be followed during disbursement of the awarded sum. Even in the judgment dated 12.01.2015 there is no such condition. As such, the Registry shall transfer first the 50% of the total amount to the appellant No.1, namely Sarojini Kalai on proper identification and the remaining 50% shall be divided under the eleven heads against each of those applicants and

those shares shall be transferred to the respective account following the procedure.

7. The Registrar(Judicial) before passing the final order of payment shall check their respective date of birth so that no minor is paid any amount. On discovery of anyone as the minor, the said amount shall be kept in a fixed deposit in any Nationalized Bank including the UCO Bank, High Court Branch for the period till the minor attained the majority. However Mr. Debnath, learned counsel has asserted that all the applicants are major and in that case there shall be no impediment in disbursing the shares in terms of the above direction.

Having observed thus, all these interlocutory applications are disposed of.

सत्यमेव जयते

JUDGE