

HIGH COURT OF CHHATTISGARH, BILASPUR

M.C.C. NO. 835 OF 2016

1. Smt. Kiran Kujur, W/o Late Balkumar, aged about 32 years,
2. Ku. Lainsi Prinska Kujur, D/o Late Balkumar, aged about 11 years
3. Ku. Nainsi Fosta Kujur, D/o Late Balkumar, aged about 11 years,
The applicants no. 2 & 3 minors through natural guardian mother Smt. Kiran Kujur (Applicant no.1)
4. Smt. Domini Kujur, (mentioned as Homini Kujur in impugned order) W/o Shri Sadhram, aged about 66 years,
All resident of village Jarhi, S.E.C.L. Colony, Mines Quarter no. 580, Police Station Bhatgaon, Tahsil Pratappur, District Surguja (C.G.)

... Applicants

Versus

1. Ajay Kumar Tiwari, S/o Late S.P. Tiwari, aged about 30 years, occupation Driver, R/o Village Budhar, Police Station Patna, Tahsil Baikunthpur, District Korea (C.G.)
2. Ramchandra Gupta, S/o Late Sarju Gupta, aged about 52 years, owner of Vehicle, R/o Ambikapur, Tahsil and Police Station Ambikapur, District Surguja (C.G.)
3. The United India Insurance Company Ltd., through Branch Manager Ambikapur, near of Ram Mandir, Ambikapur, Tahsil and Police Station Ambikapur, District Surguja (C.G.)

... Respondents

For Applicant	:	Mr. Rakesh Pandey, Advocate.
For Respondent No.3	:	Mr. Dashrath Gupta, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

16/11/2016

1. The present application has been filed by the Applicants seeking a modification to the order dated 8.7.2016 passed by this Court in Misc. Appeal (C) No. 586 of 2010.
2. Counsel for the Applicants submits that this Court while entertaining the appeal under Section 173 of the Motor Vehicles Act had enhanced the compensation awarded by the Additional Motor Accident Claims Tribunal (F.T.C), Pratappur, District Surguja in Claim Case No. 56 of 2008, from Rs.17,46,200/- to Rs.25,26,656/-, vide its order dated 8.7.2016.

3. Counsel for the Applicant further submits that the said appeal was preferred in the year 2010 and which came up for hearing before this Court on 8.7.2016, however, in the intervening period Appellant No.4, namely Shri Sadharam S/o Kundo, father of the deceased Balkumar, died on 14.4.2012 and this fact could not be brought to the notice of this Court while the appeal was decided finally.

4. It is further submitted by the Counsel for the Applicants that after the order dated 8.7.2016 was passed by this Court the Respondent No.3- Insurance Company had honoured the same and deposited the balance amount of compensation before the Tribunal and the learned Tribunal vide its order dated 9.9.2016 had released the amount of compensation to the Claimants No.1, 2, 3 and 5 i.e., Smt. Kiran Kujur, Ku. Lainsi Prinska Kujur, Ku. Nainsi Fosta Kujur and Smt. Domini Kujur. So far as the amount which was to be deposited in the name of Claimant No.4, Sadharam S/o Kundo, since he has expired the same was not disbursed on the ground that the same shall be disbursed as per the order, if any, passed by this Court. This has led to the filing of the present application.

5. Counsel for the Applicants at this juncture prays that the amount which is lying in the credit of the deceased Appellant/Claimant No.4, Late Sadharam S/o Kundo, the same may kindly be released in equal apportionment to the four surviving Claimants.

6. Counsel for Respondent No.3-Insurance Company has no objection in this regard. He submits that so far as the liability of the Insurance Company is concerned it has already honoured the order passed by this Court on 8.7.2016 in Misc. Appeal (C) No. 586 of 2010 and it is only the question of distribution which has now to be decided by this Court.

7. In the light of the submissions made by the Counsels appearing for the parties, the order dated 8.7.2016 passed in Misc. Appeal (C) No. 586 of 2010 stands clarified/modified to the extent that the amount which is fallen in the name of Late Sadharam S/o Kundo, who was the Appellant No.4 in the said appeal, shall be equally distributed to the four other Appellants in the appeal, i.e., Smt. Kiran Kujur, Ku. Lainsi Prinska Kujur, Ku. Nainsi Fosta Kujur and Smt. Domini Kujur.

8. With the aforesaid directives, the present M.C.C. is allowed.

Sd/-
(P. Sam Koshy)
Judge

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