

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

CR No. 4319 of 2015 (O&M)

Date of decision: 24.05.2016

Baljit Kaur and others

... Petitioners

versus

Jai Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Jaideep Verma, Advocate for the petitioners.

Mr. Govind Chauhan, Advocate for respondent No.1.

Mr. MB Jain, Advocate for respondent No.3.

K.Kannan, J. (ORAL)

The mother who was the claimant to the deceased made alongwith the widow and children had died during the pendency of the petition but the fact of death had not been brought to the attention of the Tribunal. The compensation has been assessed for the mother also. At the stage of execution, a petition was filed under Section 152 CPC that the amount assessed for compensation of mother should be made available for the other claimants equally. The objection for the insurer was that the amount paid for the mother must come back to the Insurance Company and that further the limit of discretion available under Section 152 cannot be extended to a situation where there was no clerical or arithmetical error. There is also an objection taken by the insurer that there is no plea made that there was no other legal representative other than the co-claimants in the petition.

I take it that Section 152 may not be appropriate but I will take the situation as requiring the inherent jurisdiction of the Tribunal

to meet the ends of justice and allow for the power under Section 151 to be invoked. The other claimants are the widow, children and they are doubtless the legal representatives as heirs of the pre-deceased son. The objection that there could be other heirs for the deceased mother is neither here nor there, especially when there are no particulars given that there are other heirs than the claimants and that they had been deliberately not included. The share of the amount of what has been determined cannot go back to the Insurance Company as if it were by escheat. On the other hand, it shall be taken as falling to the estate of the deceased mother to be disbursed amongst the claimants who will receive it as trustees for themselves and also for any other legal heir that could be found to exist. It will not be possible for any other legal heir to go by means of independent petition and their rights will stand confined to proceed against the widow and children themselves for any such a claim made for the share of the mother.

The order of dismissal is set aside and the petition is allowed allowing for the distribution of the amount determined for the share of the mother to the petitioners.

(K.KANNAN)
JUDGE

24.05.2016

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