

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Appeal (C) No.32 of 2017**

- Smt. Damyanteen Bai W/o Shri Amar Singh, Aged About 45 Years R/o Mararpara, Parraj, Balod, Police Station- Balod, Tahsil And District- Balod, Chhattisgarh(Claimant No.2)

---- Appellant**Versus**

1. Principal Employer Neha Traders (Daal Mill) Naya Ganj Ward, Bhatapara, Police Station- Bhatapara, Tahsil- Bhatapara, District Balauda Bazar, Chhattisgarh, Through Proprietor- Kiran Agrawal
2. Manager, Neha Traders (Daal Mill) Naya Ganj Ward, Bhatapara, Police Station- Bhatapara, Tahsil- Bhatapara, Distt. Balauda Bazar, Chhattisgarh
3. The Divisional Manager, The Oriental Insurance Company Limited, Madina Manzil, Jail Road, Kachery Chowk, Raipur, Distt. Raipur, Chhattisgarh(Non-Claimants)
4. Amar Singh Nishad S/o Shri Budharuram Nishad, Caste- Kewat, R/o Mararpara, Parraj, Balod, Police Station- Balod, Tahsil And District Balod, Chhattisgarh(Claimant No.1)

---- Respondents

For appellant	: Shri MK Bhaduri, Advocate
For respondent No.4	: Shri Mayank Chandrakar, Advocate

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****08.3.2017**

Heard the matter finally at the motion stage itself.

2. Facts in brief of the case are that the Court below vide award dated 12.5.2016 directed non-applicant No.3-Insurance Company to deposit an amount of Rs.4,94,773/- as compensation within 30 days from the date of award failing which they have to pay interest @ 12% from the date of accident till deposit. The Court below further directed that non-applicants 1 & 2 shall

deposit Rs.2,47,386/- within 30 days from the date of award failing which interest @ 12 % shall be payable. In compliance of said award as per order sheet dated 05.11.2016, the non-applicants deposited the compensation amount of Rs.6,99,200/- in the proceedings in Misc. Case No.16ECAct/16 fatal (Amarsingh and others Vs. Neha Traders and others). The trial Court at time of pronouncement of the award dated 12.5.2016 while deciding issue No.3 regarding lawful dependency held that the said issue may be appreciated at the time of the disbursement of compensation amount.

3. The Court below had entertained the applications of applicants No.1 and 2 wherein both the applicants had pray for disbursement of the entire amount deposited to individual applicant. With this, both the applicants claim for the disbursement of the entire deposited amount to them. The Court below without assigning any reason for apportionment appreciated on the lawful dependency ordered for the apportionment and disbursement in the said order. Against the said order of apportionment, the appellant/claimant No.2 preferred the instant appeal under the provisions of Section 30(1)(c) of the Employees Compensation Act, 1923 for setting aside the order of disbursement of the compensation and also for the modification of the said award. As per the present appellant, she is the only legal dependent of the deceased.

4. Heard learned counsel for the parties. On behalf of respondent No.4 it is submitted that out of the amount so deposited, about Rs.1,00,000/- is disbursed to respondent No.4. Learned counsel for the appellant is unable to submit how much amount disbursed to present appellant till date.

5. Perused the order dated 05.11.2016.

6. On perusal of the said order it appears that the Court below has not considered the question of dependency as provided under Section 2(d) of the Act 1923 and without assigning any reason it has passed impugned award of apportionment i.e. distribution of compensation amount between both the applicants.

7. The said order is not a speaking order. The Court below was required to decide the application filed on behalf of both the applicants on its merits and thereafter to pass the speaking and reasoned order in accordance with law.

8. Learned counsel further submits that the Court below has stayed further proceedings on the apportionment amount/disbursement of compensation amount in the matter.

9. Consequently, the instant MAC is hereby disposed of. The Court below is directed that after affording opportunity of hearing to the parties regarding their claim over the compensation amount pass an order afresh regarding apportionment/disbursement of the compensation amount deposited in compliance of award dated 12.5.2016. The parties are directed to appear before the Court below either in person or through their respective counsel to

submit their claim over the compensation amount on **10.4.2017**.

The Court below is directed to decide the question of legal dependency, apportionment/distribution of the compensation till **11.05.2017**. The parties are directed to cooperate with the proceedings as per law.

10. MAC disposed of.

Sd/-

(Chandra Bhushan Bajpai)

JUDGE