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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.10452 OF 2016

Anupama w/o Damodar Admane,
Age: 62 years, Occu: Nil,
R/o. Borgaon (Ka),
Tq. & Dist. Latur

..PETITIONER
(Ori.Resp.No.4)

VERSUS

Vijaymala w/o Ramesh Admane,
Age: 27 years, Occu: Service,
R/o. Borgaon (Ka), Tq. & Dist. Latur,
At present residing at Dhoki,
Tq. & Dist. Osmanabad

..RESPONDENT
(orig. claimant)

Mr R. B. Deshpande, Advocate for petitioner;
Mr S. J. Salunke, Advocate for respondent

CORAM : NITIN W. SAMBRE, J.

DATE : 13th September, 2017

ORAL ORDER:

Ramesh died in an accident leaving behind his parents Damodar and Anupama on one side and Vijaymala, his wife on the other. In Motor Accident Claim Petition No.16 of 2010, the Chairman, Motor Accident Claims Tribunal, Osmanabad, vide judgment and order dated 8th January, 2013, awarded compensation as under:-

“The respondents No. 1 and 2 shall jointly or severally deposit for payment to claimants an amount of Rs. 13,30,000/- (Rs. Thirteen Lac Thirty Thousand only), (including 'NFL' amount) together with interest at the rate of 7.5% p.a. from the date of petition, till the amount is realized.

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Amount shall be distributed equally amongst the claimant and respondents No. 3 and 4.

An amount of Rs. 3 lac shall be invested in the name of each claimant, respondents No. 3 and 4 in any Nationalized Bank of their choice for the period of 7 (Seven) years, with facility to recover quarterly interest on the FDRs for maintenance and livelihood.

Rest of the amount be paid to claimant and respondents No. 3 and 4 by account-payee cheque.

An award be drawn up accordingly.”

2. Vijaymala, wife of deceased Ramesh, feeling aggrieved to the extent of apportionment, preferred First Appeal No.1040 of 2013, which was partly allowed by this Court with following observations:-

“The respondent nos. 3 and 4 (parents of the deceased) are to receive 50 per cent of the compensation from MACT, Osmanabad, even by discharging the Fixed Deposit Receipts.

Appeal partly allowed as above. No costs.

After proper accounts, respective payments be made to the parties. Civil Application disposed of.”

3. As a consequence of above, Vijaymala was entitled for 50% and Damodar and Anupama were jointly held entitled for 50% of the amount of the compensation.

(3)

4. Damodar expired on 14th March, 2014, which prompted Vijaymala, wife of deceased Ramesh to prefer (MACP) M. A. No.4 of 2015 in already decided Motor Accident Claim Petition seeking share from the share of Damodar. The said application came to be allowed vide order dated 3rd September, 2016, passed by Chairman, Motor Accident Claims Tribunal, Osmanabad, whereby the present petitioner and respondent Vijaymala were held to be entitled to the extent of 50% each from amount of Rs.4,14,486/- along with interest, if any, which order is questioned in the present petition.

5. It is the contention of the petitioner Anupama, wife of deceased Damodar and mother-in-law of present respondent that the order of the Tribunal is without any authority, as the Tribunal has ceased to have any control over the proceedings once first appellate Court has passed order directing apportionment of the amount of compensation.

6. Seeking shelter of the provisions of Section 8 of the Hindu Succession Act, Shri. Salunke, learned Counsel appearing on behalf of respondent would urge that the Tribunal below has correctly divided the share of Damodar into two equal parts. According to him, the petition deserves dismissal.

7. Considered rival submissions.

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8. It is apparent that in First Appeal No.1040 of 2013, preferred by respondent Vijaymala, this Court had already adjudicated entitlement of the parents of deceased and present respondent-widow and it was held that the parents were jointly entitled to receive 50% of the compensation and respondent-widow to remaining 50%.

9. Just because there is death of Damodar, father-in-law of the respondent, that would not give her any cause, particularly in absence of any expressed provisions under the Motor Vehicle Act seeking apportionment of compensation of deceased Damodar, which is contrary to the decision rendered by this Court in First Appeal No.1040 of 2013.

10. In any case, the order passed in First Appeal No.1040 of 2013 cannot be modified, much less pursuant to the provisions of Section 8 of the Hindu Succession Act as the Chairman, Motor Accident Claims Tribunal is not the reviewing authority or the appellate authority for modifying the order passed by this Court.

11. The Chairman, Motor Accident Claims Tribunal ceased to have any jurisdiction over the matter once this Court has already ordered apportionment of the shares. In view thereof, the order impugned dated 3rd September, 2016, passed by Chairman, Motor Accident Claims Tribunal, Osmanabad in (MACP) M. A. No.4 of 2015, is quashed and set aside, being without jurisdiction.

(5)

The parties shall be governed by the apportionment as ordered by this Court in First Appeal No.1040 of 2013, decided on 22nd January, 2014.

Writ Petition stands allowed in above terms.

(NITIN W. SAMBRE, J.)

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