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C.M.P.No.11995 of 2019
in C.M.A.No.3118 of 2017

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R. SUBRAMANIAN, J.
and
K.KUMARESH BABU, J.

The petitioners seek modification of the orders passed in the Civil Miscellaneous Appeal.

2. While disposing of the appeal by an order dated 26.09.2018, apart from reducing the compensation awarded by the trial Court at Rs.1,13,03,500/- to Rs.1,01,80,000/-, the Division Bench of this Court, to which one of us [Justice R.Subramanian] was a party, had held that the sisters of the deceased namely the claimants 5 and 6 will not be entitled to a share in the compensation awarded, as they were not dependent on the deceased, and apportioned the compensation between claimants 1 to 4.

3. However, pending appeal, an interim order was granted in the CMP.No.19119/2017 directing the Insurance Company to deposit 50% of the award amount as a condition for grant of stay of execution of the award. The conditional order was complied by the Insurance Company. Subsequently, the claimants filed a petition in CMP.No.6631 of 2018 to withdraw their respective shares in the 50% of the award amount



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deposited by the Insurance Company. The Division Bench by an order dated 27.04.2018 permitted withdrawal of 50% of their respective shares in the deposited amount.

3. We are now informed that instead of withdrawing the 50% of their respective shares in the amount deposited by the Insurance Company, the claimants were permitted to withdraw the entire deposited amount i.e., 50% of the compensation, by the Tribunal. In the process, leaving the minor's share, the claimants/respondents 5 and 6 namely the sisters of the deceased had also withdrawn Rs.3,33,608/- each and the father of the deceased had also withdrawn roughly about Rs.3,00,000/- over and above his entitlement.

4. Because of the above, the amount available at the hands of the Tribunal for being disbursed to the claimants 1 and 2 namely the wife and minor daughter of the deceased Dr. Mariappan has reduced. Since we have not permitted the withdrawal of the minor's share, the said share remains intact. Therefore, the effective reduction would be in the share of the wife of the deceased, the first respondent in the Civil Miscellaneous Appeal.

5. The petitioners / claimants would now agree that this excess



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amount withdrawn by the sisters and father of the deceased Dr.Mariappan would be adjusted in the share of the wife namely the first respondent in CMA/ first claimant before the Tribunal. It is also stated that the entire amount payable under the award has been deposited.

6. In view of the above, instead of modifying the order in CMA, we deem it fit to direct the Tribunal to pay the balance amount to the wife of the deceased / first petitioner herein / first claimant, after adjusting the amount that has been withdrawn by the father in excess of his share and the sisters of the deceased. The share of minor daughter shall be kept in Court deposit till she attains majority, and on she attaining majority, her share with accrued interest shall be disbursed to her.

7. Accordingly, this petition is ordered.

[RSMJ] [KBJ]
11.11.2022

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