



2023:DHC:7631



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 17.10.2023

+ **CM(M) 1700/2023**
LAXMI BALMIKI & ORS.

..... Petitioners

Through: Mr.Santosh Kumar Chaurihaa,
Adv.

versus

NEW INDIA ASSURANCE CO LTD. & ORS.

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed challenging the order dated 16.03.2023 (hereinafter referred to as the 'Impugned Order') passed by the learned Motor Accident Claims Tribunal-01, (West-District), Tis Hazari Courts, Delhi (hereinafter referred to as the 'Tribunal'), dismissing the application filed by the petitioners herein which sought the release of the compensation awarded in favour of the respondent no.4 by the learned Tribunal vide its Award dated 01.12.2022 passed in MACT Case No. 187/2019, titled as *Smt. Laxmi Balmiki & Ors. v The New India Assurance Co. Ltd. & Ors.*, in favour of the petitioners.

2. By the above-mentioned Award, the learned Tribunal had

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awarded a total compensation of Rs.16,89,428/- in favour of the petitioners and the respondent no.4. Out of the total compensation awarded, a sum of Rs.4,00,000/- plus 1/4th of the interest amount has been apportioned by the learned Tribunal in favour of the respondent no.4. Thereafter, the petitioners filed an application before the learned Tribunal contending therein that the whereabouts of the respondent no.4, who is the wife of the deceased, were not known as she has left the matrimonial home after the death of the deceased. It was, therefore, claimed before the learned Tribunal that the awarded compensation apportioned in favour of the respondent no.4 be released in favour of the petitioner no.2, who is the son of respondent no.4, and the petitioner no.1, who is the mother-in-law of the respondent no.4. The said application has been dismissed by the learned Tribunal vide its Impugned Order dated 16.03.2023.

3. Learned counsel for the petitioners reiterates that as the whereabouts of the respondent no.4 are not known, the compensation amount should be released in favour of the petitioners. He submits that the petitioners are ready and willing to provide adequate undertaking to reimburse the compensation amount in case later any claim is made by the respondent no. 4.

4. I find no merit in the said contention.

5. Under Section 166 of the Motor Vehicles Act, 1988, a Claim Petition seeking compensation for the death in a motor vehicular accident can be filed by any or all of the legal representatives of the deceased. Proviso to Section 166(1)

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further states that where all the legal representatives of the deceased have not joined any such application claiming compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased, and the legal representatives who have not so joined, shall be treated as respondents to the application. The purpose is that there should be only one application filed for claiming compensation on account of the death of a person in a motor vehicular accident. The Tribunal is to award compensation to the legal heirs of the deceased. The same has been done by the learned Tribunal in the Award dated 01.12.2022.

6. It is not the case of the petitioners that respondent no.4 has been missing for more than 7 years. Therefore, the awarded amount of compensation is to be preserved for the respondent no.4, and cannot be released, at this stage, to the petitioners as prayed for.

7. I, therefore, find no merit in the present petition. The same is dismissed.

8. The learned Tribunal, however, is directed to keep the share of the compensation and the interest awarded in favour of respondent no.4 in an interest bearing Fixed Deposit till any claim is made on her behalf for the release of the said amount.

NAVIN CHAWLA, J

OCTOBER 17, 2023/rv/ss

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