IN THE HIGH COURT AT CALCUTTA

IN APPEAL FROM ITS CONSTITUTIONAL WRIT JURISDICTION

Original Side

Present:

The Hon'ble Justice Debangsu Basak

and

The Hon'ble Justice Md. Shabbar Rashidi

APO No. 60 of 2023

WPO 3145/2022

Eastern Coalfields Limited

Vs.

Sumi Kamin and Others.

For the appellant : Mr. Manik Das, Adv.

For the respondents : Mr. Partha Ghosh, Adv.
Mr. Amal Kumar Datta, Adv.
Ms. Simran Sureka, Adv.
Mr. Debashis Das, Adv.

Heard on : July 30, 2024

Judgment on : August 20, 2024

Md. Shabbar Rashidi, J.

1. The appeal at the behest of Eastern Coalfields Limited is in assailment of an order dated March 24, 2023 passed in WPO 3145 of 2022.

2. By the impugned order, learned Single Judge allowed the writ petition filed by the private respondent directing the appellant to pay the Monthly Monetary Cash Compensation (MMCC) to the writ petitioner with effect from the January 22, 2010 i.e. the date following the date of death of deceased employee with interest thereon at the rate of 6% per annum.

3. Learned advocate for the appellant contended that the impugned order was passed by learned Single Judge without considering the submission made on behalf of the appellant in their report on affidavit. It was urged that the impugned order was passed under misconstruction of the provisions of the National Coal Wage Agreement (NCWA).

4. Learned advocate for the appellant also submitted that learned Trial Judge did not consider the submissions of the appellant to the effect that the appellant was not in a position to ascertain, among more than one female dependant of the deceased employee, as to which female dependant was entitled for employment or the MMCC, unless an application in this regard was received from the dependant claiming benefits with 'no objection' from others.

5. Learned advocate for the appellant further contended that the learned Single Judge did not appreciate that there was no application for employment by the private respondent. The application dated May 26, 2010 was filed seeking appointment for the son of the writ petitioner which was governed by Clause 9.3.0 of the relevant NCWA and was not governed by Clause 9.5.0. Similarly, learned Trial Judge also failed to appreciate that payment of MMCC was governed by Clause 9.5.0 and not under clause 9.3.0 of the NCWA. It was further submitted that payment of MMCC is not an alternative for employment under clause 9.3.0.

6. Learned advocate for the appellant further submitted that the learned Single Judge did not consider that MMCC was an alternate for employment only in case of a female dependant in terms of clause 9.5.0.

7. It was further contended by learned advocate for the appellant that learned Single Judge failed to appreciate that the original written application was filed praying inter alia for compassionate appointment of the son of respondent No.1 and in the alternative for release of MMCC for the writ petitioner. It was contended that once the option for employment has been exercised for a male dependant, there was no opportunity for the female dependant to exercise the option for employment or MMCC.

8. It was further contended on behalf of the appellant that learned Single Judge erred in considering that no plausible explanation was offered by the writ petitioners as to what prevented her from approaching the court immediately on the death of her husband. The application for employment of her son was pending since 2010 which was disposed on April 26, 2018.

9. Learned advocate for the appellant also contended that the impugned order is bad in law so far as it directs payment of MMCC from the date of death of the employee concerned. It was argued that learned judge was also not justified in awarding interest on due amount from such date. In support of his contention, learned advocate for the appellant relied upon **(2008) 8 Supreme Court Cases 648 (Union of India and others vs. Tarsem Singh), (2016) 13 Supreme Court Cases 797 (Asgar Ibrahim Amin vs. Life Insurance Corporation of India), (2022) Supreme Court Cases 641 (Rushibahi Jagdishchandra Pathak vs. Bhavnagar Municipal Corporation).**

10. Relying upon **(2015) 3WBLR (Cal) 464 (M/s Eastern Coalfields Limited vs. Dewanti Kumari)**, learned advocate for the appellant submitted that in terms of the National Coal Wage Agreement (NCWA), the management of the coal companies are authorized to refer the matter to joint Bipartite Committee for interpretation of the provisions of NCWA.

11. Learned advocate for the appellant also relied upon the judgment in the case of **(Eastern Coalfields Limited vs. Kumari Kiran Singh and Others)** in support of the proposition that it was not open for the courts to rewrite the terms of NCWA in respect of compassionate appointment. The same was handiwork of the joint deliberations between the employer and the representatives of employees which is an exception to the general rule of appointment, should be strictly adhered to.

12. Learned advocate for the appellant also submitted that payment of MMCC to the writ petitioner, was directed from the date of death of employee in a case before learned Single Judge of this Court, being **WPA 17269 of 2021** (**Smt. Dukhni Bhuiya vs. M/s Eastern Coalfields Limited**). The order so passed on November 16, 2021 was assailed before a Coordinate Bench of this Court being

MAT 86 of 2022 (**M/s Eastern Coalfields Limited vs. Smt. Dukhni Bhuiya)**. By a judgment and order passed on April 21, 2022, the judgment and order passed by learned Single Judge was affirmed directing payment of MMCC form the date of death of the employee. M/s Eastern Coalfields Limited carried a Special Leave Petition before the Hon'ble Supreme Court in Civil Appeal No. 6730 of 2023 (**M/s Eastern Coalfields Limited vs. Dukhni Bhuiya)**. The Hon'ble Supreme Court was pleased to quash and set aside both the orders passed by learned Single Judge and the Coordinate Bench of this Court and limited the payment of MMCC to three years prior to the date of the filing of the writ petition.

13. Learned advocate for the appellant also relied upon the decision of a Coordinate Bench of this Court in APOT 50 of 2024 **(M/s Eastern Coalfields Limited and Anr. vs. Fulwa Devi and Ors.)** where, claim for monetary compensation was allowed from the date of application to process the claim of the widow for appointment. Similarly, in APO 129 of 2023 (**Eastern Coalfields Limited vs. Bodi Mejhain and Ors.**) and FMA 618 of 2024 (**Eastern Coalfields Limited vs. Sanjukta Nayak alias Sanjukta Nahak alias Sanjukta Nahaka & Ors**), a Coordinate Bench of this court directed payment of MMCC from the date of application on the ground that right to receive MMCC embodied in NCWA needed to be exercised by making an application.

14. On the other hand, learned advocate for the writ petitioner/respondent submitted that in terms of NCWA, the right to receive MMCC vests in the dependent of a deceased employee which accrues from the date of death of such employee. Learned advocate for the respondent relied upon the judgment and order passed in **FMA 98 of 2023(M/s Eastern Coalfields Limited vs. Smt. Pnawa Bhuiya**), **MAT No. 1006 of 2022** (**M/s Eastern Coalfields Limited vs. Smt. Ambabati Mahali), MAT No. 1007 of 2022(M/s Eastern Coalfields Limited vs. Smt. Dulali Majhian@ Majhan Ors.**), **MAT 1489 of 2022** (**M/s Eastern Coalfields Limited vs. Smt. Chapala Kora), MAT No. 915 of 2023** (**M/s Eastern Coalfields Limited & Ors. vs. Kosmi Devi Bhiya & Ors**), and **Civil Appeal No. 8089 of 2002** (**S. K. Mustan Bee vs General Manager, South Central Railway & Anr.**). It was also submitted by learned advocate for the private respondent that the orders passed by the Coordinate Benches of this court in some of the aforesaid cases were assailed at the behest of Eastern Coalfields Limited and the Hon'ble Supreme Court, refused to interfere with such orders in **S.L.P Diary Nos.15950 of 2023, 33608 of 2022, 34579 of 2022 and 27524 of 2023** respectively.

15. For the selfsame proposition that MMCC is payable from the date of death of the employee, learned advocate for the writ petitioner/respondent also relied upon the judgment and order passed by the Coordinate Benches of this court in **MAT 1257 of 2021** (**M/s Eastern Coalfields Limited vs. Smt. Kajol Badyakar & Ors.**), **FMA 1693 of 2019** (**M/s Eastern Coalfields Limited vs. Smt. Shefali Khan & Ors.**), **APOT 49 of 2019** (**M/s Eastern Coalfields Limited & Ors. Premlata Devi Ors**.), **APOT 518 of 2007** (**Smt. Chhaya Singh Sardar vs. Coal India Limited & Ors.**), **APOT 88 of 2013** (**M/s Eastern Coalfields Limited vs. Bipini Marandi Ors.), APOT 151 of 2016** (**M/s Eastern Coalfields Limited vs. Bimali Majhain Ors.**), **APO 61 2023** (**Eastern Coalfields Ltd. Vs. Champa Munda & Ors**), **APO 189 2023** (**Eastern Coalfields Ltd. Vs. Smt. Mina Bouri & Ors**), **2024 SCC On Line 1535 (Central Coalfields Limited vs. Bipini Murmu**) and **Civil Appeal No. 8089 of 2002** (**S. K. Mustan Bee vs General Manager, South Central Railway & Anr**.)

16. Relying upon the decision in **APOT 269 of 2014** (**M/s Eastern Coalfields Limited & Ors. vs. Kajoli Bouri**), learned advocate for the respondent submitted that not only MMCC is payable from the date of death of the employee but the Coordinate Bench of this court also observed that the coal company is under obligation both, to advise the female dependant of her right and guide her to the appropriate option.

17. Learned advocate for the respondent also submitted that a special bench of this court, constituted on the issue involved in this appeal, being **FMA 4401 of 2016** (**Putul Rabidas vs. M/s Eastern Coalfields Limited & Ors.**), observed that employment/monetary compensation is automatic upon death and is a matter of right. No application to claim the right of MMCC is required. Such decision of the Special Bench was upheld in the Hon'ble Supreme Court.

18. Relying upon judgment passed in **SLP (Civil) 16734 of 2022** (**State of Rajasthan & ors. Vs. O.P. Gupta**)**, Civil Appeal No. 4100 of 2022** (**Shri M. L. Patil** (**Dead**) **through LRs vs. The State of Goa and Anr.**) and **1999 SCC 450 (Hindustan Petroleum Corporation Ltd. vs. Dolly Das),** it is submitted on behalf of writ petitioners that the MMCC being payable monthly giving rise to fresh cause of action every month, delay in approaching the court is not fatal.

19. Learned advocate for the respondent also submits that in accordance with the judicial discipline, a decision by Coordinate bench should be followed. To such proposition, reliance is placed on a decision reported in **(2004) 11 SCC 26 (State Punjab & Anr. Vs M/s Devans Modern Brewaries Ltd. & Anr.)**

20. Learned advocate for the writ petitioner has drawn our attention to a reasoned order dated November 27, 2020 passed by the Director (Personnel), Eastern Coalfields Limited in the case of one Smt. Sanju Bhuina @ Sanjhawa, through which, monetary compensation was directed to be paid from the date of death of deceased employee. It is contended that the authorities cannot discriminate between similarly circumstanced beneficiaries. The benefits extended to one should be uniformly applied under similar circumstances. In support of such contention, reliance is placed on **(2008) 14 Supreme Court Cases 403 (Purnendu Mukhopadhyay and others vs V. K. Kapoor and another).**

21. The husband of the writ petitioner/respondent namely Langra Munda was an employee of the Eastern Coalfield Limited. The said employee died in harness on January 21, 2010. The writ petitioner applied for compassionate appointment for her son Rajesh Munda. Other legal heirs of the deceased employee, namely the sons Diku Munda and Mahendar Muda and the daughter Sunita Munda, by a writing dated February 24, 2010 expressed their 'no objection' to such employment in favour of Rajesh Munda.

22. Such application for compassionate appointment of the son of deceased employee was processed. Several communications were exchanged between the parties. The son of deceased employee, by a letter dated January 08, 2015, from the Assistant Manager, Madhujore Colliery, was asked to appear before the area screening committee. Ultimately, such application for compassionate appointment was rejected by a writing dated May 10, 2018.

23. Upon rejection of the claim of her son Rajesh Munda for appointment on compassionate ground, the writ petitioner, by an application dated September 12, 2022, requested for release of Monthly Monetary Cash Compensation (MMCC) from the date of death of her husband. In the said letter, the petitioner specifically stated that she had received death-cum-retirement terminal benefits like provident fund, gratuity, pension etc. but admissible MMCC was not paid to her.

24. Such prayer of the petitioner having not been allowed, the petitioner approached before this court by filing a Writ Petition being W.P.O. No. 3145 of 2022. The writ petition so filed on behalf of the petitioner culminated into the impugned order, directing the appellant to pay the Monthly Monetary Cash Compensation (MMCC) to the writ petitioner with effect from January 22, 2010 i.e. the date following the date of death of deceased employee with interest thereon at the rate of 6% per annum.

25. The materials placed on record, demonstrates that the appellants are aggrieved of the impugned order on the ground that the petitioner never filed a claim for MMCC before September 12, 2022 and as such, learned Single Judge ought to have directed payment of MMCC from the date of application i.e. September 12, 2022 instead of January 22, 2010. It was also contended that since, the petitioner never claimed MMCC, the appellants were not at fault, the direction for payment of interest upon the due amount at the rate of 6% was not justified.

26. In the instant appeal, the primary question which has fallen for our consideration is whether the writ petitioner is entitled for MMCC, owing to the death of her husband, payable from the date following the death of her husband as directed in the impugned order or from the date of application made by her in this regard.

27. We have gone through the materials placed before us. We have also perused the provisions of the NCWA governing the payment of MMCC. Since the petitioner is a female dependant of the deceased employee, the relevant provision governing her rights, is Clause 9.5.0 of the National Coal Wage Agreement (NCWA) which is reproduced hereunder for convenience:

> *9.5.0 Employment/Monetary compensation to female dependants*
>
> *Provision of employment/monetary compensation to female dependants of workmen who die while in service and who are declared medically unfit as per clause 9.4.0 above would be regulated as under:*
>
> *(i). In case of death due to mine accident, the female dependant would have the option to either accept the monetary compensation of Rs 4000/- per month or employment irrespective of her age.*
>
> *(ii). In case of death/total permanent disablement due to cause other than mine accident, and medical unfitness under clause 9.4.0.,if the female dependant is below the age of 45 years she will have the option either to accept*

the monetary compensation of Rs. 3000/- per month or employment.

In case the female dependant is above 45 years of age she will be entitled only to monetary compensation and not to employment.

(iii). In case of death either in mine accident or for other reason or medical ufitness under clause 9.4.0, if no employment has been offered and the male dependant of concerned worker is 12 years and above in age, he will be kept on a live roster and would be provided employment commensurate with his skill and qualifications when he attains the age of 18 years. During the period the male dependant is on live roster, the female dependant will be paid monetary compensation as per rates at paras (1) and (2) above. This will be effective from 1.1.2000.

(iv). Monetary compensation wherever applicable, would be paid till the female dependant attains the age of 60 years.

(v). The existing rate of monetary compensation will continue. The matter will be further discussed in the standardization committee and finalized.

28. A bare reading of the provisions of Clause 9.5.0 of the NCWA, indicates that the female dependant of an employee, who died in harness, is entitled for appointment on compassionate grounds, if she is under a specified age or in the alternative, for Monthly Monetary Cash Compensation till she attains the age of 60 years. The provisions also contain a stipulation that if the deceased employee left behind a female dependant as well as a male dependant who is a minor above 12 years, such male dependant shall be kept on live roster and until he attains the age of majority, MMCC will be paid to the female dependant.

29. It is evident that the right to employment on compassionate ground or the MMCC germinates on the death of an employee in harness. Such legal position coupled with the provision contained in Clause 9.5.0 (iii) of NCWA clearly indicates that MMCC is liable to be paid from the date immediately following the death of the employee. There is no specific provision in the NCWA which stipulates the mandatory requirement of an application, in order to entitle the female dependant to MMCC. There is also no specific provision authorizing the department to remain sitting tight over the matter unless an application in this regard is made by the concerned dependant. Rather the words "*if no employment has been offered*" and the words "*the female dependant will be paid monetary compensation as per rates at paras (1) and (2) above*" clearly imply that the MMCC is to be paid by the employer irrespective of any claim. The employer is under obligation to offer the same. In the case of **Kajoli Bouri (Supra)**, it was observed that, *"It is evident from the provision that there is a financial security which is afforded to the female dependant of a deceased workman and the right crystallises instantaneously upon the death of the workman. The immediacy has per force to be inferred upon recognising the provision to ensure that the female dependant of the deceased workman or the bereaved family is not washed away by the calamitous loss of the bread-earner. In the event the female dependant opts for employment and it is possible to offer employment, the employment has to be given within reasonable time of the application being made. If the female dependant entitled to apply for an appointment does not apply for the employment within reasonable time after the death of the workman, she would be deemed to have exercised the option to receive compensation which would be payable from the date of death or the month following the date of death of the workman. The right that inheres in the female dependant of the deceased workman gives rise to a corresponding obligation or duty on the part of the coal company to offer*

and reach the monthly compensation to the female dependant. The right to the compensation is unconditionally immediate and is not dependant on any application for the purpose. Indeed, given the rationale behind the provision, it is the duty of the concerned coal company to both advise the dependant female member of a deceased workman of her rights and guide her to the appropriate option. A government company as an employer cannot be heard to say that a distressed family would be deprived of the benefit by reason of any belated application therefor. The appointment sought on compassionate grounds may be declined on account of delay or other cogent grounds; but the monthly compensation has to be paid with effect from the date of death of the workman or the month following the death."

30. Similar principles to the effect that MMCC to the dependant was payable from the date following the date of death of the employee and not from the date of application were also laid down in consideration of the peculiar facts and circumstances of each case in **Smt. Pnawa Bhuiya (Supra)**, **Smt. Ambabati Mahali**

(Supra), Smt. Dulali Majhian@ Majhan (Supra), **Smt. Chapala Kora (Supra)**, **Kosmi Devi Bhiya (Supra)**, **Dewanti Kumari (Supra), Smt. Kajol Badyakar (Supra)**, **Smt. Shefali Khan (Supra), Premlata Devi (Supra)**, **Smt. Chhaya Singh Sardar (Supra), Bipini Marandi (Supra)**, **Bimali Majhain (Supra)**, **Champa Munda (Supra)**, **Smt. Mina Bouri (Supra)**, **Bipini Murmu (Supra)**. In some of the aforesaid cases even delay in making applications for MMCC was considered not a sufficient ground to disentitle a claimant or for payment of the same from a later date.

31. The Special Bench decision of this court in the case of **Putul Rabidas (Supra)**, which was affirmed up to the Hon'ble Supreme Court, it was noted that,

> *"63. We do record our approval........... Appointment or compensation by payment of money to a female dependent of a deceased worker is automatic upon death (subject to fulfilment of the conditions in clause 9.3.4 insofar as appointment is concerned). Even no application is required to be made. Irrespective of the quantum of death benefits that might have accrued in favour of a deceased worker, her dependent (as defined in clause 9.3.3) would be entitled to*

consideration for appointment, if she is of the required age, or monetary compensation. None of the grounds assigned for spurning the claim of Putul being of any worth, we set aside the order dated May 29, 2015 of the General Manager (P & IR).”

32. Learned advocate for the appellants have relied upon the decision in **Tarsem Singh (Supra)**. In the said case, it was observed that normally belated service -related claim will be rejected on the ground of delay and latches or limitation. However, it was noted that one of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, the list can be granted even if there is a long delay in seeking remedy with reference to the date on which the continuing wrong commences, if such continuing wrong creates a continuous source of injury. The Hon'ble Supreme Court also held that if the grievances are in respect of any order or administrative decision which are related to or affected several others also, and if the reopening of the issue would affect this settled right of third parties, then the claim will not be entertained.

33. Noting that the observations made in the case of **Tarsem Singh (Supra)**, the Hon'ble Apex Court, in the case of **Asger Ibrahim Amin (Supra)** and **Bhavnagar Municipal Corporation (Supra)**, in the specific facts of the said cases, in consideration of the huge unexplained delay, was pleased to limit the claim of pensionary benefits to 3 years preceding the date of the petition filed before the High Court.

34. Since, interpretation of any of the clause of the National Coal Wage Agreement is not under challenge; the ratio laid down in the case of **Dewanti Kumari (Supra)** has no manner of application in the present case. Similarly, the case of **Kumari Kiran Singh (supra)**, exclusively deals with the claim of the petitioner for compassionate appointment. There was no claim for monetary benefits in the said case, the ratio laid down in the said case cannot be applied in the facts of the present case.

35. In the case of **Dukhni Bhuiya (Supra)**, the Hon'ble Supreme Court in a Civil Appeal preferred against an order passed in appeal from the order of Single Judge, limited the claim for MMCC to 3 years prior to the date of filing of the writ petition in the High Court in consideration of the particular facts of the said case. Supreme Court noted that,

> *"5. In view of the said position………………… It is held that in the peculiar facts of the case where the respondent waited for almost 21 years before approaching the court by filing the writ petition seeking monetary compensation from the appellant, the amount as directed to be paid by this Court is adequate to meet the ends of justice."*

36. In the case at hand, however, the peculiar facts noted in the case of **Dukhni Bhuiya (Supra),** do not exist. The delay in approaching the Court by the writ petitioner has been sufficiently explained in this case. The husband of the writ petitioner died in 2010. An application for appointment of the son of deceased employee was promptly made in a month of death of the employee. The authorities took more than ten years in considering such application for compassionate appointment which was ultimately disposed in the year 2018. Thereafter, the writ petitioner approached the authorities and ultimately the Court for MMCC. Had the authorities decided on the application for compassionate appointment within a reasonable time, the writ petitioner could have approached the Court much earlier. The appellants cannot be allowed to extract benefit of their own wrong.

37. In the facts of the case of **Fulwa Devi (Supra),** the writ petitioner therein, had applied for compassionate appointment of the brother-in-law of deceased employee who was never recognized as a dependant in terms of NCWA. The claim of Fulwa Devi was based on a memorandum of settlement executed by and between the parties. In the instant case, there is no such bipartite settlement between the parties. The writ petitioner herein has staked her claim on the sole basis of NCWA. Therefore, the ratio in the case of **Fulwa Devi (Supra)** cannot be applied in the facts of the present case.

38. Similarly, in the case of **Bodi Mejhain (Supra),** the Coordinate Bench noted a complete hiatus between **January 02, 2001 and February 03, 2020** which was not explained and therefore held the petitioner to be entitled for compensation from February 2020. However, in the present case, there is no such delay. The writ petitioner applied for MMCC within a reasonable time, to be more specific within 3 years when the claim for compassionate appointment of her son was rejected. Such delay cannot be termed as complete hiatus.

39. In the case of **Sanjukta Nayak (Supra),** a Coordinate Bench observed in the following terms i.e. to say:

> *"8. Notwithstanding a right to receive compassionate appointment or 'MMCC' benefits accruing in terms of the contract of employment, such right needs to be exercised, that is to say, an application for the same is to be made by the person entitled thereto, before the employer for consideration. On favourable consideration of the same, the right crystallizes. In the facts of the present case, such application was made in 1998."*

40. However, in the order passed in the case of **Putul Rabidas (Supra)**, it was laid by a Special Bench of this Court that,

> ***"****Appointment or compensation by payment of money to a female dependent of a deceased worker is automatic upon death (subject to fulfilment of the conditions in clause 9.3.4 insofar as appointment is concerned).* ***Even no application is required to be made."***

41. For such observations of the Special Bench, which was affirmed up to the Hon'ble Supreme Court in SLP(C) No. 6642-6643 of 2018, we are not in a position to return a finding that filing of an application claiming MMCC by a female dependant of an employee died in harness, was mandatory and for such reasons the claim of the writ petitioner is required to be limited to the date of application.

42. In the case of **Purnendu Mukhopadhyay (Supra)**, the Hon'ble Supreme Court laid down that the State cannot treat employees similarly situated differently. Our attention was drawn to the reasoned order passed by the appellant authorities dated November 27, 2020, in support of the contention that once the authorities have extended the benefits to other employees, the same cannot be denied to the writ petitioner.

43. The appellants have also placed reliance on the ratio laid down in the case of **M/s Dewan Modern Breweries (Supra)** to the proposition that decision rendered by a Division Bench is binding. There is no dispute with regard to such proposition. However, it depends upon the subjective satisfaction that the persons treated differently are similarly circumstanced which, in turn, calls for the scrutiny of the facts and circumstances of each individual case.

44. In the facts of the present case, death in harness of the employee concerned occurred on January 21, 2010. The writ petitioner applied for compassionate appointment of her son within a month of such death. We have already said that the authorities took at least 8 long years to consider the application which was ultimately rejected in the year 2018. The writ petitioner then applied for MMCC from appellant authorities and consequently approached the Writ Court in 2021.

45. No materials are placed before us that the MMCC was ever offered to the writ petitioner. The authorities appear to be sitting tight over the entitlement of the private respondent and have now come up with a case of stale claim. In fact, in the circumstances of the present case, no delay can be attributed to the writ petitioner. Not only that, in view of ratio laid down in the case of **Kajoli Bouri (Supra),** it is the appellant who was at fault, firstly, by not offering the entitlement of writ petitioner and secondly, by not guiding her through, to put in her claim.

46. In the light of discussions made hereinbefore, we find no material to interfere with the findings of learned Single Judge as to the entitlement of private respondents/writ petitioner in respect of MMCC on account of death of her husband from the date following the date of death. We also find no reason to interfere with the direction for payment of interest on the due amount with effect from such date. We find no merit in the appeal.

47. Accordingly, the instant appeal being **APO No. 60 of 2023** is hereby dismissed without any order as to costs and thus disposed of. Connected applications, if any, shall stand disposed of.

48. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties on priority basis upon compliance of all formalities.

[MD. SHABBAR RASHIDI, J.]

49. I agree.

[DEBANGSU BASAK, J.]