



W.P.(MD)No.15680 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2024

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.(MD)No.15680 of 2022 &  
W.M.P.(MD)No.11287 of 2022

A.Suryakala

...Petitioner

vs.

1.The Joint Commissioner of Labour,  
(The Authority under the  
Employee's Compensation Act, 1923),  
The Office of Joint Commissioner of Labour,  
Trichy.

2.Asaithambi

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records relating to the impugned order dated 04.09.2015 passed in Letter No.Pa.E/194/2015(pa) of the first respondent, quash the same in so far as holding that the second respondent is also a dependent of the deceased employee / petitioner's son A.Sampathkumar, along with the petitioner and apportioning the compensation amount, which was determined in the award dated 04.08.2011 in W.C.No.145 of 2009, between the petitioner and the second respondent and consequently to hold that the petitioner is



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the only dependent entitled to get the entire compensation amount and to direct the first respondent to pay the petitioner the portion of the compensation amount Rs.2,00,000/- allotted for the second respondent, along with the accrued interest thereof within a time frame as may be fixed by this Court.

For Petitioner : Mr.S.Arunachalam

For Respondents : Mr.P.Thambidurai,  
Government Advocate for R1

### ORDER

This writ petition is filed against the impugned order dated 04.09.2015, insofar as the apportionment of the award dated 04.08.2011 in W.C.No.145 of 2009.

2. The learned counsel appearing for the petitioner would submit that the petitioner's son Sampathkumar died in a lorry accident on 03.06.2008. Subsequently, an award was passed for a sum of Rs. 4,39,440/- against the owner of the vehicle and the Insurance Company. The Insurance Company has also deposited the said amount with the first respondent. However, the first respondent determined the apportionment on 04.09.2015 and ordered that the petitioner who is the mother of the



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deceased is entitled to 50% of the compensation and the second respondent who is the father of the deceased is entitled to 50% of the compensation. As far as the petitioner's 50% is concerned, she was permitted to withdraw the amount and the remaining 50% is lying with the first respondent for a long period.

3. The learned counsel for the petitioner would further submit that though the second respondent is the husband of the petitioner, he has left the family even 22 years before the date of the accident and abandoned both the petitioner and their son. Only the petitioner was taking care of her son. Now, as on date, almost 38 years have passed and the whereabouts of the second respondent is not known. Under such circumstances, the petitioner has sent a letter dated 07.01.2020 to the first respondent requesting them to permit her to withdraw the amount which was apportioned to her husband, since her husband left the family 22 years back as on the date of the accident. The said letter was received and receipt is also produced before this Court. However, no action has been taken till date. The learned counsel would submit that the Labour



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Inspector after receipt of information from the Tahsildhar deposed before the first respondent that the second respondent who is the husband of the petitioner is alive, but his whereabouts is not known. However, the said aspect was not considered by the first respondent and still 50% of the compensation amount is not granted to the petitioner. Therefore, the learned counsel would pray that appropriate orders may be passed for paying the balance amount to the petitioner.

4. The learned Government Advocate appearing for the first respondent would submit that, as of now, the whereabouts of the second respondent is not known. However, the Labour Inspector after obtaining information from the Tahsildhar deposed that though the second respondent's whereabouts is not known, he is alive. Therefore, the first respondent is holding 50% of the compensation amount, which is the second respondent's share. He would further submit that if any order is passed by this Court, the same would be complied with by the first respondent.



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5. Considering the submissions made on both sides, in the present case, there is no dispute on the aspect that due to the death of the petitioner's son in a lorry accident, an award was passed to an extent of Rs.4,39,440/- and it was apportioned as Rs.2,39,440/- towards the petitioner and Rs.2,00,000/- towards the second respondent. The claim petition was filed by the petitioner, where the second respondent was impleaded as one of the legal heirs. It is clear that the second respondent did not appear before the first respondent either in the claim petition or in the apportionment order. The Labour Inspector also deposed before the first respondent after collecting information from the Tahsildhar that the whereabouts of the second respondent is not known but he is alive. The second respondent has left the petitioner and their son even 22 years before the date of the accident. Till the death of the petitioner's son, the petitioner alone acted as a guardian for her son i.e., for a period of 22 years. All these things ought to have been taken into consideration and the first respondent should have permitted the petitioner to withdraw 100% of the compensation amount, atleast after the expiry of seven years. In the present case, request was made as early as in the year 2020



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for withdrawal of balance 50% of the compensation amount. Even then, the petitioner's request was not considered. Till date, the first respondent is simply keeping the amount, when the second respondent has left the family almost 38 years ago. This Court cannot sit and wait that the person who left the family 38 years ago will come and take his share back and even if he comes, he is not entitled to that share of compensation because till the accident, only the petitioner took care of her son. Taking into consideration all the above aspects, this Court directs the first respondent to release the balance amount of Rs. 2,00,000/- (second respondent's share) to the petitioner along with accrued interest and costs up to the date of withdrawal, within a period of four weeks from the date of receipt of a copy of this order.

6. Accordingly, this Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

20.12.2024

NCC:Yes/No  
Index:Yes/No  
Speaking/Non-speaking order  
*mbi*



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To

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(The Authority under the  
Employee's Compensation Act, 1923),  
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KRISHNAN RAMASAMY, J.

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