

**BEFORE SHRI. A. G. MAGARE, COMMISSIONER FOR
EMPLOYEE'S COMPENSATION & JUDGE,
THIRD LABOUR COURT MUMBAI.**

APPLICATION (ECA) NO. 389/A-59 OF 2017

- 1) Smt. Urmila Chandrabhan Chouhan
Aged – 27 years, Wife of deceased
- 2) Smt. Phoola Ambikaprasad Chouhan
Aged- 54 years, Mother of deceased
- 3) Kumari. Radha Chandrabhan Chouhan
Aged 12 years, minor daughter of deceased.
- 4) Kumar. Ashish Chandrbhan Chouhan
Aged- 9 years, minor son of deceased.

Residing at -

Village – Nadtar, Nibhapur,
Dist- Janupur, Uttarpradesh

... Applicants.

V/s

M/s. Simplex Infrastructures Ltd.
Through Directors,
502-A, Poonam Chambers, Shiv Sagar
Estate, A Wing, Dr. A. B. Road, Worli,
Mumbai- 400 018.

...Opponent.

In the matter of application for distribution under section 8 of the
Employees Compensation Act.

CORAM : A.G. Magare, Commissioner & Judge.
Appearance : Shri. S.M. Barot Adv. for applicants.

DISTRIBUTION ORDER
(Passed on : 2/11/2017)

1) This is an application under Section-8 of Employee's Compensation Act, 1923 for apportionment of the amount of compensation deposited by the opponent.

2) The facts of the case in brief are as follows: -

a) One (Late) Chandrabhan Ambikaprasad Chouhan, who was employed by opposite party as a Labourer, died due to an accident arising out of and in the course of his employment with opp. Party at

their site situated at Custom Yard, Express Freeway, Shantinagar, Wadala (E), Mumbai- 400 037 on 21/6/2016. At that time deceased was 36 years and his last drawn wages were Rs, 15,000/- per month. The applicants are the legal dependents of the deceased being his widow, mother, one minor daughter and one minor son of the deceased who are entitled to compensation under the Act. The applicants are aware that amount of Rs. 7,78,560/- have been deposited by opponent with this Office of Commissioner towards compensation, which to be distributed amongst them being dependents of the deceased, as per Exh. U-12 & Exh. U-13.

3) Pursuant to this application filed by the applicants, it is seen that by order dtd. 2/11/2017, this court called office report, and according to the office report an amount of Rs. 7,78,560/- is deposited and to that effect entry has been taken at Ledger No. FA/18/14/586 dtd. 27/6/2017. It is further seen from the office report that, there is no any Writ Petition, Appeal or any application pending before the Hon'ble High Court, at Bombay regarding the subject matter and also the office did not receive any stay order or writ from any court of law.

4) Thereafter it is further seen that by letter dtd. 27/6/2017, the opponent company has deposited cheque of Rs. 7,78,560/- bearing No.270024 dtd. 20/6/2017 in respect of death of deceased and given no objection for payment of the said amount to the legal heirs of the deceased. Details of the amount deposited is mentioned in form no-A. It is clearly mentioned by employer that, they did not desire to be made a party to the proceeding for the distribution of said amount. Therefore notice was not issued to the employer.

5) In support of the claim, the applicants have filed an

affidavit of applicant no. 1 and 2 at Exh. U-3 and Exh. U-4, affidavit of applicant no. 1 and 2 for no other legal dependent at Exh. U-5 and Exh. U-6, affidavit of applicant no. 1 for no appeal and stay at Exh. U-7, waiving of publication notice at Exh. U-8, affidavit of independent witness Shri. Hariom Puttan Chouhan alongwith copy of his Adhar Card at Exh. U-9. The applicants have also filed list of documents which includes verified copies of Adhar Card, election identity card, pan card of applicant no.1 at Exh. U-14, Exh. U-15 and Exh. U-16, verified copies of Adhar Card of applicant no. 2, 3 and 4 at Exh. U-17, Exh. U-19 and Exh. U-20 and verified copy of Pan Card of applicant no. 2 at Exh. U-18, copy of death certificates of Radhika Chandrabhan Chouhan, daughter of deceased and father of deceased namely Ambikaprasad, marked as Article A & B. The applicants have also filed Original copy of identification form at Exh. U-21, Exh.U-23 and they are identified/attested by Adv. S.M. Barot The applicants have also filed original copy of Schedule A at Exh. U-22 and Exh. U-24 and also filed copy of Bank pass book at Exh. U-25 showing that they are having joint account in the Bank.

6) From the aforesaid all these documents, it shows that, Applicant no.1 is the widow of the deceased, Applicant no.2 is the mother & applicant no.3 & 4 are the minor children of the deceased. I have personally verified the applicants, through their original documents placed on record and which are mentioned in para no. 5 of this order. Applicants are the only dependents entitled to claim the deposited compensation amount. During the course of verification their Advocate S. M. Barot was also present, who identified the applicants and also explained them about this application and thus, I am of the opinion that, the applicants are the only legal heirs of the deceased.

7) I have heard Advocate S.M. Barot for the applicants and perused the claim affidavit and other documents on record which are mentioned above. The death of deceased has been occurred during the course of employment with the opponent. No one except applicants claimed to be dependents or legal heirs of the deceased.

8) In view of the aforesaid facts and circumstances, the applicants being legal heirs and dependents of the deceased are entitled to get their respective share from the deposited amount of the compensation i.e. Rs. 7,78,560/- (Rupees Seven Lacs Seventy Eight Thousand Five Hundred Sixty Only) as per their prayer made in affidavit Exh. U-12 and Exh. U-13, out of the said amount, i.e. applicant no.1 widow of the deceased is entitled to receive an amount of Rs. 3,78,560/- (Rupees Three Lacs Seventy Eight Thousand Five Hundred Sixty Only) applicant no.2 mother of the deceased is entitled to receive an amount of Rs. 2,00,000/- (Rupees Two Lacs Only) and amount of Rs. 1,00,000/- each be invested in Nationalized Bank in the name of applicant no. 3 and 4 being minor children of the deceased.

Hence I am inclined to pass following order:

ORDER

- 1) Application is allowed.
- 2) It is hereby declared that applicant-
 - i) Smt. Urmila Chandrabhan Chouhan- widow of the deceased.
 - ii) Smt. Phoola Ambikaprasad Chouhan,- Mother of the deceased.
 - iii) Kumari. Radha Chandrabhan Chouhan- Minor Daughter of the deceased.
 - iv) Kumar Ashish Chandrabhan Chouhan- Minor son of the deceasedare the dependents of the deceased Chandrabhan Ambikaprasad Chouhan as defined under section 2(1)(d) of the Employee's Compensation Act,1923 and they are legally entitled to receive their respective share from deposited compensation amount of

Rs. 7,78,560/-(Rupees Seven Lacs Seventy Eight Thousand Five Hundred Sixty Only)i.e.

a) Applicant no. 1 Smt. Urmila Chandrabhan Chouhan being widow of the deceased is hereby allotted share amount of Rs. 3,78,560/- (Rupees Three Lacs Seventy Eight Thousand Five Hundred Sixty Only). It shall be paid over to her by transferring the said amount electronically via NEFT/ECS in her account of as per the details of the bank account as mentioned in Schedule-A(Exh.U-22), annexed with the application.

b) Applicant no. 2 Phoola Ambikaprasad Chouhan, being mother is hereby allotted share amount of Rs. 2,00,000/- (Rupees Two Lacs Only) each. It shall be paid over to her by transferring the said amount electronically via NEFT/ECS in her account of as per the details of the bank account as mentioned in Schedule-A (Exh.U-24), annexed with the application.

c) Applicant no. 3 Kumari. Radha Chandrabhan Chouhan and applicant no.4 Kumar. Ashish Chandrabhan Chouhan, being minor daughter and son of the deceased is hereby allotted share amount of Rs. 1,00,000/- (Rupees One Lac Only) each by investing it into fixed deposit in any nationalized bank till they attains the age of majority.

4) Application stands disposed off accordingly.

Date- 2/11/2017

SSA

Sd/-
(A.G. Magare)
Commissioner for Employees
Compensation & Judge
Third Labour Court, Mumbai.