

## ORDER ON I.A NO.I TO IV

The applicants filed I.A No.I to III under Sec.5 of Limitation Act, under Order XXII rule 9 and Order XXII rule 3 of CPC seeking to bring them on record as legal representatives of deceased petitioner by setting aside the order of abatement and by condoning the delay in filing the application. In the affidavit filed in support of the application, it is stated that the petitioner is the husband of applicant no 1 and father of applicant no 2 to 4 are and the petitioner filed the petition seeking for compensation for the injuries sustained in the accident. During the pendency of the petition, the petitioner died and they could not file necessary application within time. The applicants, being the legal representatives, are having subsisting interest in the subject matter of the petition. The right to sue subsists in favour of applicants as they are entitled of the estate of deceased petitioner. On the said grounds, applicants sought to allow I A No I to III.

2. The counsel for petitioner filed I A no IV under Order VI rule 17R/w Sec.151 of CPC seeking permission to amend the pleadings as sought in the application. In the affidavit filed in support of the application, it is contended that the petitioner sustained injuries due to accident and admitted to the

hospital for treatment. The petitioner died on 06.03.2024 due to accidental injuries. The death of petitioner is caused due to the consequences of the injuries caused in the accident. The said aspect is to be incorporated in the petition and as such, application is filed seeking amendment to the petition. On the said grounds, applicants sought to allow the application.

3. The copy of applications are served on respondents and in spite of according opportunities, respondents not filed objection to the applications. Hence, objection of respondents to the applications is treated nil.

4. Heard the counsel for the applicants. Argument of respondents on the applications is treated nil. Perused the materials on record.

5. The petitioner filed the petition against the respondents seeking compensation for the injuries sustained in the accident. The petitioner is stated to have died during the pendency of the petition due to the accidental injuries. The applicants furnished the death certificate which discloses the aspect of death of petitioner. The applicants are stated to be legal representatives of deceased petitioner. The applicants furnished copy of aadhar card which prima facie disclose their relationship with that of deceased

petitioner. The respondents not resisted the contention of applicants by filing objection. The applicants, being the legal representatives of deceased, are entitled to succeed to the estate of deceased. The compensation that may be awarded to the petitioner is considered to be the estate of the deceased and applicants are entitled to the same. The right to sue survives in favour of applicants. The death of petitioner does not appear to abate the petition as the right to survives in favour of applicants. The compensation to which the petitioner might be held entitled is deemed to be asset of the petitioner and the applicants, being the legal representatives, are entitled to the compensation that may be awarded by the Tribunal. The materials placed at this juncture disclose that the applicants are the legal representatives of deceased petitioner and the right to survives in their favour. The applicants need to be brought on record for adjudication of dispute. The explanation provided by the applicants for the delay caused in filing the application appears satisfactory. The applicants made out grounds to allow the application.

6. Further, the applicants contended that the petitioner died in consequence of the injuries sustained by him in the accident. The applicants intend to incorporate the facts related to cause of

death by virtue of amendment. The petitioner died during the pendency of the petition and there is change in the circumstances. The amendment, as sought in the application, appears to have arisen due to death of petitioner during the pendency of petition. The proposed amendment is intended to incorporate the aspects related to death of petitioner. The proposed amendment appears just and necessary for proper adjudication of subject matter of the dispute. The proposed amendment appears just and necessary in order to meet the ends of justice. The applicants made out grounds for allowing the application for amendment. Hence, this Tribunal deems it appropriate to pass the following

**ORDER**

The I.A No.I to IV filed by the applicants is allowed.

The applicants are permitted to come on record as legal representatives of deceased petitioner and directed to carry out amendment in that regard and also the amendment as sought in I.A No.IV.

For amendment and amended petition.

Call on 17.03.2025.

**1<sup>st</sup> Addl. Judge & ACJM**