

Court No. - 40

Case :- WRIT - C No. - 33450 of 2023

Petitioner :- Chhotaki

Respondent :- Claim Settlement Commissioner/ D.M. And Another

Counsel for Petitioner :- Amit Kumar Sinha, Deepali Srivastava Sinha

Counsel for Respondent :- C.S.C., Anubhav Sinha, Bikash Kumar Mishra

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Heard Sri Amit Kumar Sinha, learned counsel for the petitioner; Sri Anubhav Sinha, learned counsel for respondent no.1 and Sri Ambrish Shukla, learned Additional Chief Standing Counsel for the State respondents.

2. The petitioner, who is widow of Late Sampat Lal, has approached this Court for following reliefs:-

"(a) Issue a writ, order or direction in the nature of mandamus commanding the respondents to pay Rs.2,00,000/- to the petitioner in place of Rs.25,000/- against her claim application (Annexure No.5) under the compensation to victims of Hit and Run Motor Accidents Scheme, 2022 (Annexure No.1) read with provisions of Section 161 of M.V. Act (Annexure No.2) by modifying the order dated 22.8.2023 (Annexure No.6) passed by respondent no.1.

(b) Issue a writ, order or direction in the nature of mandamus commanding the respondent no.1 to decide the claim application dated 16.10.2020 (Annexure No.5) of the petitioner afresh as per the provisions of Section 161 of Motor Vehicle Act (as stands amended with effect from 1.4.2022) vide Motor Vehicle (Amendment) Act, 2019.

(c) Issue a writ, order or direction in the nature of mandamus commanding the respondents to pay Rs.1,00,000/- as compensation to the petitioner for harassment & mental agony.

(d) Issue a writ, order or direction in the nature of mandamus commanding the respondents to pay interest at rate of 12% per annum to the petitioner over aforesaid amount."

3. Learned counsel for the petitioner has vehemently contended that Section 161 (as stands amended w.e.f. 1.4.2022) vide Motor Vehicle (Amendment) Act, 2019 made provisions to enhance compensation in case of hit and run motor accident from Rs.12,500/- to Rs.50,000/- for grievous hurt and from Rs.25,000/- to Rs.2,00,000/- in case of death. The Ministry has also notified a new scheme as Compensation to Victims of Hit & Run Motor Accidents Scheme, 2022 vide notification GSR 163 (E) dated 25th February, 2022. The Ministry has also published rules vide notification GSR 162 (E) dated 25th February, 2022 regarding creation, operation and sources of the Motor Vehicle Accident Fund, to be used for providing compensation in case of Hit & Run accidents, treatment for accident victims and any other purpose, as

may be specified by the Central Government. Section 161 (as stands amended) vide Motor Vehicle (Amendment) Act, 2019 is enforced w.e.f. 1.4.2022.

4. Learned counsel for the petitioner, in this backdrop, has contended that on fateful day of 11.3.2023 the husband of the petitioner namely Sampat Lal S/o Late Ram Dayal sustained grievous injuries in a motor accident, when an unknown vehicle hit him and fled away from the spot. On account of aforesaid grievous injuries the husband of the petitioner died on the spot. A first information report being FIR No.0052 of 2023 in this regard was also lodged at P.S. Phaphamau on 11.3.2023 under Section 279, 304-A IPC against unknown vehicle. It is submitted that it is not in dispute that the petitioner husband had died in road accident. The said fact is also not disputed by the respondents. Even the respondents have also acknowledged the said incident and accorded ex-gratia payment of Rs.25,000/-.

5. The core issue before this Court is whether the petitioner is entitled for higher compensation in lieu of Section 161 (as stands amended) vide Motor Vehicle (Amendment) Act, 2019 as well as the Compensation to Victims of Hit & Run Motor Accidents Scheme, 2022, which is notified on 25.2.2022. It is admitted position that the incident is of later date and prior to it the aforesaid amendment/ scheme has been enforced. The said amendment/ scheme had been made/launched just to ameliorate and help the bereaved family.

6. Considering the facts and circumstances of the case, once the authority has already acknowledged the incident and the same is also of later date, we find that the claim of the petitioner is liable to be considered in the light of the aforesaid amendment/ scheme. We accordingly set aside the order dated 22.8.2023 and remit the matter back to the authority concerned to consider and decide the claim of the petitioner for according compensation on higher side as per Section 161 (as stands amended w.e.f. 1.4.2022) vide Motor Vehicle (Amendment) Act, 2019 as well as Compensation to Victims of Hit & Run Motor Accidents Scheme, 2022 expeditiously.

7. The writ petition is **partly allowed** accordingly.

Order Date :- 31.10.2023
S.P./SP/