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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 14th January, 2016

\+ **MAC.APP. 288/2009, CM APPL. 20428/2013 & CM APPL. 14402/2015**

MANISH

..... Appellant

Through Mr. Vinod Khanna and Mr. A K Sharma, Advs.

versus

SHAKUNTALA & ORS.

..... Respondents

Through Mr. Madhu Sudan Bhayana, Adv.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT

R.K.GAUBA, J (ORAL):

1. By judgement dated 27.05.2008, the Motor Accidents Claims Tribunal ("the Tribunal") allowed the claim petition under Section 166 of Motor Vehicles Act, 1988 registered as suit No.128/2008 granting compensation in the sum of ₹10,69,000/- on account of death of Subhash Chaurasia son of Kamla Chaurasia (deceased) in motor vehicular accident that had occurred at 08.15 PM on 05.03.2008 near Kalika Mandir, DDA Flats, Narela, Delhi involving two wheeler scooter bearing registration No.DL 8SG 7231 driven by Vinay (seventh respondent herein). The scooter was owned by the appellant Manish son of Raj Kumar Mittal, who was impleaded in the claim petition as the second respondent. The claimants included Smt. Shakuntala (widow of

the victim), his three minor children - baby Preeti, baby Drishti and master Sugam besides the parents Kamla Chaurasia and Roshni Devi (claimants). The Tribunal apportioned the award amongst the said six claimants granting ₹4 lakh in favour of the widow (first respondent herein), ₹1,50,000/- each in favour of three children (second to fourth respondents herein) and ₹84,500/- each in favour of the parents (fifth and sixth respondents herein). Suitable directions were added to protect the interest of the awarded amount by making arrangements for portions thereof to be put in fixed deposit receipts. Interest was also granted on the awarded amount @ 7.5% per annum from the date of filing of the petition (18.07.2005) till realisation. It appears the offending vehicle was not insured and, thus, the liability was fastened on the driver (seventh respondent) and the owner (the appellant herein) jointly and severally. Period of 30 days for compliance with the said directions was also given.

2. The appellant, the owner of the vehicle took out the appeal at hand challenging the findings on the basis of which the said award was passed. It was entertained and notices were issued to the respondents by order dated 29.05.2009. Pursuant to various directions passed thereafter from time to time, the appellant has deposited the principal amount of the award in various instalments with the Registrar General of this Court and the same have since been released in favour of the widow and the children to the extent of their respective share, the amount payable to the mother and father (fifth and sixth respondents) still lying unpaid with the Registrar General of this Court.

3. As per the documents filed with CM No.14402/2015, the father (fifth respondent) died on 15.12.2013, while the mother (sixth respondent) died on 25.08.2014. Death certificates have been submitted with the said application praying for the amount payable to the said respondents to be released in favour of the widow (the first respondent). Two of the other legal heirs (second and third respondents) have since turned major and have given their respective “no objection” to the said amount payable to the father and mother (fifth and sixth respondents) to be instead released in favour of their mother i.e. Smt. Shakuntala. Though the applicant prays for the entire share of the deceased claimants (respondents No.5 and 6) to be paid in favour of the first respondent, the learned counsel for the claimants fairly concedes that some further apportionment would be just and proper in favour of the fourth respondent Master Sugam, who is still a minor.

4. The appellant, though having brought the appeal to challenge the award, submitted on 21.10.2009 that he was ready to pay the awarded amount with interest in quarterly instalments of ₹1 lakh each. It was in the wake of the said submission that he made certain deposits eventually discharging his liability towards the principal amount. On 26.03.2015, it was noted, on the submissions made that the entire principal amount has already been deposited. Due compliance to that extent is confirmed by the learned counsel for the claimant. On 26.03.2015, the appellant also offered to deposit the amount payable as interest in instalments of ₹50,000/- each by 7th of each month. Suitable directions were passed on the said submission. But, it be noted, no amount towards interest has been deposited in terms of the said offer till date. It is against the above backdrop that the counsel appearing for the appellant today has again,

on instructions, submitted that the appellant is ready and willing to deposit the interest amount in instalments of ₹50,000/ per month. He also submits, on instructions, that in view of the above, the appeal is not pressed and he requests that the same may be allowed to be withdrawn.

5. The appeal is dismissed as withdrawn, as prayed.

6. Both sides do not seem to be clear as to the quantum of the amount that requires to be paid towards interest. This would need a proper calculation, having regard to the date(s) of various instalments by which the principal amount has been deposited/paid to the claimants.

7. In view of the submissions on both sides, the application for release of the share of the fifth and sixth respondents is allowed to the effect that 10% of the amount payable in their favour shall be deposited in the name of Master Sugam (fourth respondent) in a nationalised bank till the date he attains majority, the balance being payable to the first respondent, to be initially kept in fixed deposit receipt in nationalised bank in her name for a period of two years.

8. The issue as to computation of the interest payable by the appellant and fixing the schedule for its payment in instalments of ₹50,000/- per month is remitted to the Tribunal for adjudication and enforcement with the assistance of both sides. To facilitate the said exercise both sides shall submit their respective statements of accounts of the amount due and amount realised/paid till date in their respective favour.

9. The Registry is also directed to send a formal report to the Tribunal within two weeks of this order informing the details of the

amounts deposited with the Registry, or with the UCO Bank, so that there is no confusion. Needless to add, the Tribunal will be within its power and jurisdiction to call for further reports from the Registry or from the UCO Bank, Delhi High Court Branch for clarity/confirmation.

10. The parties are directed to appear before the District and Sessions Judge, North at Rohini on 24.02.2016 whereupon the matter remitted as above shall be made over to the concerned tribunal for further proceedings in accordance with law.

11. The appeal is disposed of with above directions.

12. Copy of the order by given dasti to both sides.

R.K. GAUBA
(JUDGE)

JANUARY 14, 2016
VLD