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

+ W.P.(C) 2549/2016 & CM Appls. 10851, 10852/2016

BINU M K

..... Petitioner

Through: Mr. Deepak Prakash with Ms. Shruti
Srivastav, Advs.

versus

**SECRETARY TO THE GOVT MINISTRY OF EXTERNAL
AFFAIRS AND ANR**

..... Respondents

Through: Mr. Ravi Prakash with Mr. Aditya
Dewan, Advs. for UOI

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Date of Decision : 6th April, 2016

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. The present writ petition has been filed seeking a direction to the respondents to make available the autopsy report and medical reports of the deceased Mr. Manoj, M.C., to the petitioner.
2. A further direction is also sought to the respondents to submit a status report regarding the steps taken by them in pursuance to the representation dated 07th July, 2014.
3. It has been averred that the petitioner is the wife of the deceased Mr. Manoj, M.C., who was working as an Assistant Security Officer on a cruise liner named Carnival Triumph, Carnival Cruise Lines, Miami, Florida, USA. It is stated that the petitioner's husband died due to an alleged cardiac arrest on 28th July, 2013 while he was on duty on the ship.

4. Learned counsel for the petitioner states that no autopsy report was given by the company or the hospital where the deceased was treated and therefore, the cause of death is unknown to the petitioner. He further states that the deceased's friends and co-workers informed the petitioner that there was gross negligence on the part of company as the deceased was suffering from acute pain for more than eight hours and the company did not provide basic medical facilities to him.

5. Learned counsel for the petitioner states that the petitioner needs the autopsy and medical reports of the deceased for taking legal action against the company Carnival Triumph.

6. Learned counsel for the petitioner states that the petitioner has waited for almost three years for autopsy and medical reports, but company Carnival Triumph has not sent the same. He further states that the petitioner approached respondent No.1-Ministry of External Affairs and Prime Minister's Office, but has not received the required documents till date.

7. Learned counsel for the respondents, who appears on advance notice, states that while the respondents share the pain and anguish of the petitioner, they cannot do much. He has also handed over an e-mail written by the Consul General of India, Scotland St, Houston, TX with regard to the present case. The said e-mail is taken on record. It reads as under:-

"Dear Mr. Dewan,

While the death and dispatch of mortal remains of the deceased Indian citizen Mr. Manoj M.C. took place in Galveston, Texas, [under consular jurisdiction of the CGI Houston], his place of employment and location of employer is in Florida which is under the consular jurisdiction of CGI Atlanta. Repeated Attempts by this Consulate during the last

two years to obtain medical records and the autopsy report of the deceased Indian national Mr. Manoj M.C. have not been successful with Galveston County Health District bouncing it to University of Texas Medical Branch Galveston Campus and they in turn having told us in writing that they do not have the records of the deceased.

Sharing of medical records in the US is an issue covered by strict privacy and repeated urging of US authorities with request letters of next of kin have not been successful so far.

We will approach the Ministry to allow us to hire an attorney to go through the legal/court process to obtain relevant medical records/autopsy report for the next of kin in accordance with local privacy laws. This, if approved by the Ministry, is likely to take some time and looks like the only feasible route to obtain these records or obtain a finality regarding their existence.

*Sincerely,
P.Harish
Consul General of India,
43 Scotland St
Houston, TX 77007”*

8. In view of the aforesaid e-mail, learned counsel for the petitioner wishes to withdraw the present writ petition with liberty to file proceedings in the United States Court. He, however, prays that the Ministry of External Affairs as well as Consul General of India, Scotland St, Houston, TX be directed to provide all assistance to the petitioner.

9. Consequently, the present writ petition is dismissed as withdrawn with a direction to the respondents to render all possible assistance to the petitioner in accordance with law.

10. It is clarified that this Court has not expressed any opinion on the merits of the controversy and rights and contentions of all parties are left open.

Order dasti.

MANMOHAN, J

APRIL 06, 2016
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