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

Decided on: October 13, 2017

+ CM(M) 823/2013

DEEPAK BHARADWAJ & ANR Appellant

Through: Mr. Sandeep Verma & Mr.
Pushpendra Kumar Baghel
Advocates alongwith petitioner
in person.

Versus

SUDHA RANI & ORS Respondents

Through: Mr. Sudhir Kr. Singh,
Advocate.

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

JUDGMENT (ORAL)

1. The petitioners were impleaded as first and second respondents in the accident claim case (suit no. 301/10) instituted on 03.10.2007 by the respondents joining hands with Jai Kumar Singh father of Alok Kumar Singh, the person on account of whose death the accident claim case sought compensation, the cause of action having arisen out of motor vehicular accident that took place on 08.07.2007 involving negligent driving of motor vehicle bearing registration no.

DL3CS6805. The first petitioner was described as the driver of the vehicle at the time of accident and the second petitioner as the owner of the said vehicle. The pleadings and the evidence also show that the vehicle had been taken on *superdari* by one Devender Kumar, after its seizure by the police during the course of investigation into the corresponding criminal case registered regarding the accident. The said Devender Kumar was impleaded as third respondent before the Tribunal. On the basis of inquiry, the tribunal, by its judgment dated 13.09.2011, held all the three said respondent before it, they including the petitioner herein and the abovementioned Devender Kumar, liable jointly and severally to pay compensation as determined by the judgment.

2. It appears that during the execution proceedings taken out by the respondents (claimants) to enforce the award, the petitioners herein reached an amicable settlement with them, the former having agreed to receive total amount of Rs. 5,00,000/- towards full and final satisfaction of their claim against the petitioners. The said amount was duly paid and the settlement brought to the notice of the tribunal (executing forum). It further appears that by way of application dated 17.08.2013, the first respondent Sudha Rani (who was prosecuting the case on behalf of others) sought directions seeking withdrawal of the money deposited by the petitioners in terms of the said settlement and for requisite process to be issued against the third person, namely Devender Kumar (referred to as judgment debtor no. 3), held liable for the balance.

3. The tribunal, however, was not satisfied primarily for the reason that the interest of the minors, who were also amongst the claimants, had not been taken care of and, for this reason, by order dated 01.07.2013, directed recovery certificate to be issued for the remaining amount against the persons held liable jointly and severally.

4. Pursuant to the directions given by this Court on the previous dates, the respondents (claimants) have submitted photocopies of the deposit receipts confirming that the share of the minors has also been deposited in fixed deposits. The interest of the minors thus has been duly taken care of by their mother. The respondents through counsel confirm that they do not seek to press for recovery of the balance of the award against the petitioners, particularly in view of the settlement deed whereunder they have received Rs. 5,00,000/- from them. Since the liability was fastened by the tribunal jointly and severally, the desire of the petitioners and the settlement amicably entered upon by them will have to be honoured and respected.

5. Thus, the petition is allowed. The tribunal shall close the execution proceedings against the petitioners and would be at liberty to prosecute the matter for recovery of the balance against the other person held liable.

6. With these observations, the petition stands disposed of.

R.K.GAUBA, J.

OCTOBER 13, 2017/p