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

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Date of Decision: 01st August, 2017

+ **MAC.APP. 581/2008**

UOI

..... Appellant

Through: Mr. Kirtiman Singh, CGSC with
Mr. Prateek Dhanda, Mr. Waize Ali
Noor, Mr. Vikramaditya Singh,
Advocates.

versus

KRISHAN KUMAR

..... Respondent

Through: Mr. Nitin Yadav, Advocate along
with respondent in person.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the award dated 11th August, 2008 of the Claims Tribunal whereby compensation of Rs.17,68,000/- has been awarded to the respondent.
2. On 22nd July, 2005, Deepti Yadav was going from Lady Harding Medical College to Kapashera on Motor Cycle No.DL-4 SAY-0448 being driven by Ashok Kumar. When the motor cycle reached Sardar Patel Marg near Taj Hotel, Chanakyapuri, New Delhi, it was hit by a Military truck bearing no. 02D-150276Y from the back side which resulted in fatal injuries to Deepti Yadav and grievous injuries to Ashok Kumar, driver of the motor

cycle and Mukesh sitting on the pillion. Three separate claim petitions were filed before the Motor Accident Claims Tribunal which resulted in the common award.

3. Deepti Yadav was aged 25 years at the time of the accident and was survived by his husband who filed the claim petition before the Claims Tribunal. The deceased was a registered nurse with Delhi Nursing Council and was earlier working with Sunder Lal Jain Charitable Hospital Ashok Vihar, Phase – III, Delhi – 110052. She was scheduled to join Dr. Badhwar Nursing Home and Fracture Centre, B-25 Nazafgarh Road, Uttam Nagar, New Delhi w.e.f. 1st August, 2005 at a monthly salary of Rs.8,000/- per month. The Claims Tribunal took the income of the deceased as Rs.8,000/-, added 50% towards future prospects, deducted 1/3rd towards personal expenses and applied the multiplier of 18 to compute the loss of dependency as Rs.17,28,000/-. The Claims Tribunal awarded Rs.25,000/- towards loss of estate and consortium and Rs.15,000/- towards funeral expenses. The total compensation awarded is Rs.17,68,000/-.

4. Mr. Kirtiman Singh, learned Central Government Standing Counsel for Union of India urged at the time of the hearing that there was no negligence on the part of the driver of the Military truck. Learned counsel for the appellant further urged that the compensation awarded by the Claims Tribunal is on a higher side. It is submitted that the deceased was not employed on the date of the accident.

5. Learned counsel for the respondent urged at the time of the hearing that the appellant has not challenged the common award passed in favour of the two injured persons namely Ashok Kumar and Mukesh and therefore, the finding of the Claims Tribunal with respect to the negligence of the truck

driver has attained finality.

6. There is merit in the contention urged by learned counsel for the respondent. Since the appellant has not challenged the finding of negligence in the two connected cases relating to the injured persons, the finding of negligence has attained finality and cannot be agitated by the appellant. The compensation awarded by the Claims Tribunal is just, fair and reasonable and does not warrant any reduction.

7. The appeal is dismissed.

8. The appellant has deposited the entire award amount with the Registrar General of this Court out of which 25% amount has been released to the respondent and the balance 75% amount is lying in fixed deposit on which monthly interest is being released to the respondent

9. The officer from the Court of Motor Accident Claims Tribunal, New Delhi District, Patiala House Court is present in Court and has produced the two FDRs for Rs.9,09,140/- and Rs.7,52,463/- in terms of the order dated 20th July, 2017. The original FDRs are handed over to Mr. Lalit Kumar, Senior Manager of UCO Bank, Delhi High Court Branch in Court today.

10. UCO Bank, Delhi High Court Branch is directed to discharge both the aforesaid FDRs and disburse the amount to respondent in the following manner:

- (i) Keep Rs.15 lakh in 100 FDRs of Rs.15,000/- each for the period 1 month to 100 months in the name of the respondent with cumulative interest.
- (ii) The balance amount, after keeping Rs.15 lakh in FDRs, be released to the respondent by transferring the same to his savings bank account No.09241000019242 with HDFC Bank, Manish Global Mall, Plot No.2, Sector 22, Dwarka.

11. The maturity amounts of the FDRs along with interest shall be transferred to the aforesaid savings bank account of the respondent with HDFC Bank.

12. All the original FDRs shall be retained by UCO Bank, Delhi High Court Branch. However, the statement containing FDR number, FDR amount, date of maturity and the maturity amount be furnished to the respondent.

13. No loan or advance or pre-mature discharge shall be permitted without the permission of this Court.

14. No cheque book or debit card be issued to respondent without the permission of this Court. However, in case, the debit card/cheque book have already been issued, HDFC Bank, Manish Global Mall, Plot No.2, Sector 22, Dwarka shall cancel the debit card and/or cheque book.

15. The statutory amount be refunded back to the appellant.

16. Copy of this judgment be given *dasti* to counsel for the parties under the signature of the Court Master. Copy of the judgment be given to UCO Bank, Delhi High Court Branch and HDFC Bank, Manish Global Mall, Plot No.2, Sector 22, Dwarka.

AUGUST 01, 2017
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J.R. MIDHA, J.