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

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Date of Decision: 06th January, 2017

+ **FAO 404/2016 & CMs 30369/2016, 30370/2016**

MAHAVIR PRASAD GUPTA Appellant
Through: **Mr. D.K. Singh, Adv.**
versus

M/S ANESH STEEL CRAFTS & ORS Respondents
Through: **Mr. D.B. Yadav, Adv.** for
respondent no.1.
**Mr. Amit Sharma, Mr. Neeraj
Bhardwaj, Advs.** for
respondents no.2 to 5 along
with respondents no.2 to 5.
**Mr. Sachin Datta, Senior
Advocate as Amicus Curiae.**

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the order dated 29th January, 2016 passed by the Commissioner, Employees' Compensation whereby compensation of Rs.8,90,480/- has been awarded to respondents no.2 to 5.

2. On 2nd August, 2012, the deceased Mansoob Ahmed @ Kashif was fixing a grill on the third floor of appellant's property bearing No.A-10, Hazrat Nizamuddin, New Delhi when he fell down and suffered fatal injuries. The deceased, Mansoob Ahmed was aged 22 years at the time of the accident and was survived by his mother, two unmarried sisters and one unmarried brother who filed the application for compensation before the Commissioner, Employees'

Compensation. The Commissioner, Employees' Compensation passed the award for Rs.8,90,480/- along with interest @ 12% per annum against the petitioner as well as respondent no.1.

3. Vide order dated 23rd December, 2016, the appellant was directed to deposit the entire award amount along with up to date interest with UCO Bank, Delhi High Court Branch within two weeks. Learned counsel for the appellant submits that the two demand drafts no.071075 dated 6th January, 2017 for Rs.8,90,000/- and no.550404 dated 2nd January, 2017 for Rs.4,62,000/- are ready and the same shall be deposited with UCO Bank, Delhi High Court Branch during the course of the day. The original demand drafts have been shown and the copies of the demand drafts are taken on record.

4. Learned counsel for the appellant seeks recovery rights to recover the award amount from respondent no.1 on the ground that respondent no.1 was the contractor and solely responsible to pay the compensation to respondents 2 to 5.

5. Since the appellant has no objection to the release of the award amount to respondents no.2 to 5, UCO Bank, Delhi High Court Branch is directed to disburse the amount being deposited by the appellant to respondents no.2 in terms of this order.

6. Respondents no.2 to 5 are present in Court. Respondent no.2, mother of the deceased submits that respondent no.3 is getting married on 11th January, 2017 and Rs.3,50,000/- be immediately released to her for marriage of respondent no.3.

7. Upon deposit of the aforesaid two demand drafts by the appellant with UCO Bank, Delhi High Court Branch, UCO Bank is directed to release a sum of Rs.3,52,000/- to respondent no.2 by

transferring the said amount to her savings bank account No.003621000020239 with Zila Sahkari Bank Ltd., Bijnor (IFS Code: ICIC00BIJNR, MICR : 246801000). The balance amount of Rs.10 lakh be kept in 10 FDRs of Rs.1 lakh each in the name of respondent no.2 for the periods of 1 year, 2 years, 3 years, 4 years, 5 years, 6 years, 7 years, 8 years, 9 years and 10 years.

8. The monthly interest on all the FDRs shall be credited in individual savings bank account of respondent no.2 with Zila Sahkari Bank Ltd., Bijnor (IFS Code: ICIC00BIJNR, MICR : 246801000)

9. At the time of maturity, the fixed deposit amount shall be automatically credited in the aforesaid savings bank account of respondent no.2.

10. All the original FDRs shall be retained by UCO Bank, Delhi High Court Branch. However, the photocopies of the same shall be provided to the respondent no.2.

11. No cheque book or debit card be issued to the respondent no.2 without permission of this Court.

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

13. The order of the Commissioner, Employees' Compensation is upheld insofar as the Commissioner, Employees' Compensation has determined the liability of the appellant to pay compensation of Rs.8,90,480/- along with interest @ 12% per annum w.e.f. 2nd August, 2012 to respondents no.2 to 5. The satisfaction of the award against respondents no.2 to 5 is taken on record. The appeal against respondents no.2 to 5 is disposed of as satisfied. The pending applications are disposed of.

14. With respect to the appellant's claim for recovery rights against respondent no.1, the matter is remanded back to the Commissioner, Employees' Compensation who shall consider the contentions of the appellant as well as respondent no.1 and pass a fresh order with respect to the appellant's claim for recovery rights against respondent no.1.

15. The appellant and respondent no.1 shall appear before the Commissioner, Employees' Compensation on 30th January, 2016 when the Commissioner, Employees' Compensation shall fix the date for hearing the parties afresh. The Commissioner, Employees' Compensation shall endeavour to adjudicate the appellant's claim for recovery rights against respondent no.1 within a period of five months from today. The record of the Commissioner, Employees' Compensation be returned back forthwith.

16. This Court appreciates the assistance rendered by Mr. Sachin Datta, learned senior counsel as amicus curiae in this matter.

17. Copy of this judgment be given *dasti* to counsel for the parties under the signature of the Court Master.

JANUARY 06, 2017
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J.R. MIDHA, J.