

\$~39

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

%

**Date of Decision: 12<sup>th</sup> January, 2017**

+ **MAC.APP. 647/2015**

**AMIT MITTAL**

..... Appellant

Through: Mr. Atul Sharma, Adv. along  
with appellant in person.

versus

**MOHD. TAHIR & ORS.**

..... Respondents

Through: Mr. Rohit Dhingra, Mohd.  
Nadeem, Advs. for respondents  
No.1 and 2.

Mr.(appearance not given),  
Adv. for respondent No.4.

Mr. Rakesh Kumar Mittal,  
respondent No.5 in person.

**CORAM:**

**HON'BLE MR. JUSTICE J.R. MIDHA**

**JUDGMENT (ORAL)**

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.7,72,308/- has been awarded to respondents no.1 and 2.

2. On 19<sup>th</sup> July, 2009 at 8 pm, Mohd. Akram was parking his rickshaw when he was hit by offending vehicle bearing no. DL 7S AE 5608 which resulted in fatal injuries. The deceased was aged 21 years and was survived by his parents who filed the claim before the Claims Tribunal. The Claims Tribunal took minimum wages of Rs.3,934/-, added 50% towards future prospects, deducted 50% towards personal expenses and applied the multiplier of 18 to compute the loss of dependency as Rs.6,37,308/-. The Claims Tribunal awarded Rs.1 lakh

towards loss of love and affection, Rs.10,000/- towards loss of estate, Rs.25,000/- towards funeral expenses. Total compensation awarded is Rs.7,72,308/-.

3. The appellant has challenged the award on the ground that the appellant had sold the offending vehicle to Shri Rakesh Kumar Mittal before the accident on 5<sup>th</sup> July, 2009 and at the time of accident, the offending vehicle was being driven by respondent no.4 who is the son of the purchaser, Rakesh Kumar Mittal. The delivery receipt and the letter dated 5<sup>th</sup> July, 2009 relating to the transfer have been placed on record as Annexures A-1 and A-2. According to the appellant, respondent no.4 and his father Rakesh Kumar Mittal are liable to pay the compensation to respondents no.1 and 2. Without prejudice and in the alternative, it is submitted that recovery rights be granted to the appellant to recover the award amount from respondent no.4 and his father, Rakesh Kumar Mittal. The appellant also seeks impleadment of Rakesh Kumar Mittal as respondent in this appeal. It is further submitted that the appellant was proceeded *ex parte* and therefore, the appellant's contentions were neither raised nor considered by the Claims Tribunal.

4. The appellant has deposited a sum of Rs.3,75,000/- with the Registrar General of this Court in terms of order dated 10<sup>th</sup> September, 2015. Further sum of Rs.8,25,000/- has been deposited with UCO Bank, Delhi High Court Branch on 16<sup>th</sup> December, 2016 in terms of the order dated 3<sup>rd</sup> November, 2016.

5. As per the Accounts Officer of this Court, there is a short deposit of Rs.1,57,734/-. Learned counsel for the appellant submits that the statutory deposit of Rs.25,000/- be adjusted and the balance amount would be Rs.1,32,734/-. The appellant has today paid a sum

of Rs.1,32,734/- to respondent no.2 by means of a cheque before this Court.

6. On the oral prayer of the appellant, Mr. Rakesh Kumar Mittal is impleaded as respondent no.5 in this appeal. Respondent no.5 is present in Court and he accepts notice.

7. This Court is of the view that the compensation of Rs.7,72,308/- awarded by the Claims Tribunal to respondents no.1 and 2 is just, fair and reasonable, and does not warrant any interference. The award of compensation of Rs.7,72,308/- is, therefore, upheld. The appellant being the registered owner of the offending vehicle is held liable to pay the compensation amount to respondents no.1 and 2 in the first instance. With respect to the claim of the appellant for recovery rights against respondents no.4 and 5, the matter is remanded back to the Claims Tribunal.

8. The Claims Tribunal shall afford an opportunity to the appellant to file the written statement. The appellant as well as respondents no.4 and 5 are permitted to lead evidence after completion of pleadings. The Claims Tribunal shall thereafter adjudicate the issue as to whether the appellant is entitled to recovery rights against respondents no.4 and 5. The appeal is disposed of in the above terms.

9. The Registrar General of this Court is directed to transfer the statutory amount of Rs.25,000/- to UCO Bank, Delhi High Court Branch within one week from today.

10. Vide order dated 3<sup>rd</sup> November, 2016, this Court had directed UCO Bank, Delhi High Court Branch to disburse the FDR amount of Rs.3,75,000/- to respondents no.1 and 2. However, the disbursement has not yet taken place. Paras 4 to 10 of the order dated 3<sup>rd</sup> November, 2016 are modified. UCO Bank, Delhi High Court Branch

is directed to disburse the amount to respondents no.1 and 2 in the following manner:

- (i) UCO Bank shall consolidate the following three amounts:-
  - (a) The maturity amount of FDR of Rs.4,05,514/- along with interest thereon (mentioned in para 4 of the order dated 3<sup>rd</sup> November, 2016);
  - (b) Rs.8,25,000/- deposited by the appellant on 16<sup>th</sup> December, 2016; and
  - (c) The statutory amount of Rs.25,000/- directed to be sent by this Court to UCO Bank.
- (ii) After consolidating the aforesaid three amounts, UCO Bank, Delhi High Court Branch shall issue:
  - (a) 100 FDRs of Rs.6,000/- each in the name of respondent no.1 for the periods of 1 month to 100 months with cumulative interest; and
  - (b) 100 FDRs of Rs.6,000/- each in the name of respondent no.2 for the periods of 1 month to 100 months with cumulative interest.
- (iii) All the original FDRs shall be retained by UCO Bank, Delhi High Court Branch. However, the photocopies of the same shall be provided to respondents no.1 and 2.
- (iv) The maturity amount of the FDRs shall be transferred to the savings bank accounts of respondents no.1 and 2.
- (v) The balance amount after keeping Rs.12 lakh in FDR be released to respondents no.1 and 2 in equal proportion by transferring the same to their savings bank accounts. The details of their savings bank accounts are as under:

**Respondent no.1 (Mohd. Tauhid)**

A/c no. : 0278104000109901  
Bank : IDBI Bank  
IFSC : IBKL0000278  
MICR : 250259003

**Respondent no.2 (Akbari Khatoon)**

A/c no. : 0278104000165730  
Bank : IDBI Bank  
IFSC : IBKL0000278  
MICR : 250259003

11. Respondents no.1 and 2 are given liberty to approach this Court for release of further amount in the event of any financial exigency.
12. The appellant, respondents no.4 and 5 shall appear before the Claims Tribunal on 21<sup>st</sup> February, 2017. However, respondents no.1 and 2 are not required to appear before the Claims Tribunal.
13. The Trial Court record be returned back forthwith.
14. This Court appreciates the assistance rendered by learned counsels for the parties in this matter.
15. Copy of this judgment be given *dasti* to counsels for the parties under signatures of the Court Master.

**JANUARY 12, 2017**  
Dk

**J.R. MIDHA, J.**