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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 29th May, 2018

+ **RFA 143/2011 & CM APPL. 21012/2018**

RAMESH PRASAD GUPTA Appellant

Through: Mr. Achal Gupta and Ms. Annie Rai,
Advocates (M-8860751919) with
Appellant in person.

versus

ANITA DEVI & ORS. Respondents

Through: Mr. Divya Darshan Sharma,
Advocate (M-9958275552).

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (oral)

1. The present appeal arises out of the impugned judgment and order dated 24th December, 2010 by which the suit for damages/compensation was decreed in favour of the Plaintiffs/Respondents (*hereinafter 'Plaintiffs'*) herein for a sum of Rs.7,00,000/- to be apportioned between the Plaintiffs.

2. The case relates to an incident which took place on 12th July, 2007 when the Plaintiff No.1's husband Shri Surender Singh was allegedly called by the Appellant/Defendant (*hereinafter 'Defendant'*) for repair of the water pipes located next to the Defendant's property. The allegation was that, due to negligence of the Defendant, when the Plaintiff's husband was busy in doing the repairs, the chajja felled on the Plaintiff's husband and resulted in his death.

3. The Plaintiffs then filed the present suit seeking compensation. In the impugned judgment, the Trial Court has come to the conclusion that the demolition of the property was carried out by the MCD and its contractor. However, the Trial Court held that since the property belonged to the

Defendant he is also liable.

4. There is no doubt that some part of the liability can be fastened on the Defendant. However, as is clear from the facts, the weakening of the structure had also taken place due to the demolition carried out by the MCD.

5. Vide order dated 8th March, 2011, this Court had directed the Appellant to deposit Rs.3,00,000/-. The Plaintiff has now moved an application stating that she is a widow with small children and hence she is in dire need of money. Arguments were then heard in the appeal itself. A report was also called from the UCO Bank, which revealed that the deposit which was made has now earned interest and the total sum of Rs.5,33,897/- is lying deposit in this Court.

6. After some arguments, the parties are agreeable that a part of the amount be refunded to the Defendant and the remaining amount be released in favour of the Plaintiff. Accordingly, it is directed that a sum of Rs.2.25 Lakhs shall be refunded to the Defendant who was partly liable for the death of the Plaintiff's husband. The remaining amount along with all the interest that has accrued thereon shall be released in favour of the Plaintiff. The TDS on the proportionate interest amount shall be deducted by the Bank from both the Plaintiffs.

7. The Plaintiffs shall have no further claims against the Defendants in respect of the impugned judgement and decree.

8. The appeal and pending application stand disposed of.

PRATHIBA M. SINGH
JUDGE

MAY 29, 2018

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