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

Date of Decision: 19.04.2018

\+ **CM(M) 371/2018**

ANITA ..... Petitioner

Through: Mr.Anshuman Bal, Adv. with petitioner in person.

versus

SBI GEN INS CO LTD & ORS ..... Respondents

Through: Mr.Sameer Nandwani, Adv. for R-1.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. Vide the present petition, the petitioner impugns an order dated 18.01.2018 passed by the Motor Accident Claims Tribunal, Rohini Courts, Delhi in MACT Case No.5604/16, rejecting her application for pre-mature release of the amount lying in FDRs in her favour in accordance with the award dated 02.06.2017.

2. The brief facts as set out in the petition are that the petitioner's husband Late Shri Raj Kumar had met with a fatal car accident on 12.01.2015 being driven by one Shri Lal

Bahandur. The said offending vehicle was duly insured with SBI General Insurance Company Ltd. i.e. respondent No.1.

3. Vide the aforesaid award dated 02.06.2017, the Tribunal had directed the respondent No.1 to pay a total sum of Rs.14,61,000/- to the five claimants including the petitioner, as compensation within 30 days along with interest at the rate of 9% per annum from the date of filing of the claim petition i.e. 01.06.2015. The Tribunal had apportioned the award amount by directing that 50% of the amount would be given to the petitioner, 15% each to the two minor children and 10% to both the parents of the deceased.

4. Learned counsel for the petitioner submits that out of Rs.7 lakhs which was payable to the petitioner at the time of passing of the award, 50% of the amount i.e. Rs.3.5 lakhs was directed to be kept in a fixed deposit for a period of 5 years while 40% amount was to be kept in FDRs to be released to the petitioner in a phased manner i.e. Rs.10,000/- per month along with accrued interest thereon and only 10% of the amount was released to the petitioner at the time of passing of the Award.

5. Learned counsel for the petitioner submits that after the death of her husband, the petitioner, who is uneducated, is taking care of her minor children by working as a Medical Attendant taking care of patients from time to time and is only earning about Rs.10,000/- per month. He further submits that the petitioner is paying a rent of about Rs.6,000/- per month and

is, therefore, finding it difficult to take care of her minor children who are studying in a Government school in Jahangir Puri. He further submits that in these circumstances, the petitioner, in order to purchase a freehold land measuring 25 sq. Yards at Khasra No.14 in Sardanand Colony, Near Balaswa Dairy, Delhi had moved an application before the Tribunal praying therein for seeking release of the balance amount lying in FDRs in her favour to her account being No.37171965867 at State Bank of India, Rohini Court Branch, Delhi.

6. Vide order dated 6th April, 2018, notice of this petition was issued to respondent No.1, who is the only contesting respondent. Mr.Sameer Nandwani, learned counsel enters appearance for respondent No.1 and fairly does not oppose the petition.

7. Having heard learned counsel for the parties and interacted with the petitioner who is present in Court, I am of the view that the petitioner's prayer for premature release of the amount lying in FDRs in her favour is fully justified. The petitioner is an uneducated widow who is taking care of her minor children by staying in a rented accommodation and her desire to buy a small house to save rent cannot be said to be unjustified.

8. Even otherwise, I have noticed that even after the release of the said amount, some amount is lying in the FDRs for the minor children, so the needs of the minor children would be

taken care of. This Court has repeatedly reiterated while dealing with such applications, the Tribunal should look into the matter in a sympathetic manner and keep in mind that while considering premature release of amount, only factor which is relevant is the welfare of the legal heirs of the deceased. In my considered opinion, interest of justice demands that the said amount lying in the FDRs in the name of the petitioner, ought to be released to her.

9. The impugned order dated 18th January, 2018, passed by MACT, Rohini Court, New Delhi in MACT Case No.5604/2016 is set aside. The petition is allowed. A direction is issued to the State Bank of India, Rohini Court Branch, Delhi to release the amount lying in FDRs in the petitioner's name to her Account No.37171965867.

10. The petition is, accordingly, disposed of in the above terms.

(REKHA PALLI)
JUDGE

APRIL 19, 2018
gm