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

\+ CM(M) 1301/2017

MEENA DEVI & ANR ..... Petitioners

Through Mr.Sanjeev Bhandari, Adv. with Mr.Manoj Bhandari, Adv.

versus

SHIV DUTT & ORS ..... Respondent

Through Mr.Pankaj Gupta, Adv. for Ms.Suman Bagga, Adv.
Counsel for Respondent no.3.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

O R D E R

% **29.01.2018**

Vide the present petition, the petitioners who are parents of the deceased Late Shri Sapan Gupta, have impugned the order dated 25th April, 2017, passed by the learned Motor Accident Claim Tribunal, rejecting their request for premature withdrawal of the balance 50% amount of compensation lying in two FDRs each for Rs.10,09,845/- in the name of the petitioner no.1, the mother of Late Shri Sapan Gupta.

Learned counsel for the petitioners submits that the petitioner no.2 who is the husband of petitioner no.1 and father of Late Shri Sapan Gupta, has to undergo liver transplant and the estimated expenses for the said surgery are over Rs.20 lakhs. He relies on an e-mail dated 16th January, 2018 by Max Hospital, I.P. Extension, Patparganj, Delhi in support of his plea that the expenses for liver transplant would exceed twenty lakhs. He, therefore, prays that the said amount of the FDR be released in favour of the petitioner no.1 prematurely so that the said money could be used for the treatment of her husband who is suffering from chronic liver disease for the last eight years.

In view of the nature of the relief sought by the petitioners, no notice is required to be issued to the respondent nos.1 & 2. Having heard learned counsel for the petitioner and respondent no.3, I am of the considered view that the present petition deserves to be allowed.

It has been consistently held by this Court that the orders for deposit of the amount of compensation in FDRs are made to ensure that the said amount is not frittered away by the legal heirs of the deceased and there is no bar on the release of the amounts in suitable circumstances. The petitioner no.1 has demonstrated genuine grounds seeking release of the amounts lying in FDRs in her name. It appears that the MACT has overlooked the health condition of the petitioner no.2 who happens to be husband of the petitioner no.1 and father of the deceased and has ignored the genuine financial difficulties projected by the petitioners which were duly supported by the medical documents, by merely referring to the plea of the petitioner to buy a flat. However, keeping in view the fact of the case, it is directed that for the present, only the amount of Rs.10,09,845/- in the first FDR No.38338547602 having the maturity date of 22nd December, 2021, be released to petitioner no.1.

The prayer for release of the amount lying in the second FDR No.3833854803 of Rs.10,09,845/- would be considered only after considering the actual utilizsation of the amount of first FDR and the petitioners are accordingly granted liberty to move an application along with supporting documents for the release of the amount of the said FDR after accounting for expenditure of Rs.10,09,845/- from the first FDR.

Consequently, the present petition is allowed and the order dated 25th April, 2017 passed by the MACT, is set aside. The State Bank of India, Tis Hazari Branch, Delhi, is directed to immediately release the amounts held in the aforesaid first FDR of Rs.10,09,845/- with accrued interest to Petitioner no.1.

Dasti.

JANUARY 29, 2018/aa **REKHA PALLI, J**