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

+ **W.P.(C) 3492/2016**

ASHOK KUMAR VERMA

..... Petitioner

Through: Mr M.M. Singh, Advocate with
Mr Prashant Kr Singh, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through: Mr Devesh Singh, ASC, Civil,
GNCTD with Ms Sukriti Ghai, Ms
Urvashi Tripathi, Advocates.
SI Mahender Singh, PBC Traffic
Circle, SI Ram Tirath, Pairvi Officer
Traffic.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER
28.01.2019

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1. The petitioner has filed the present petition, *inter alia*, seeking compensation of a sum of ₹46,00,000/- on account of the fatal accident of his son Sh. Ajay Verma. The petitioner claims that the accident was a result of negligence on the part of the Public Works Department of the Government of NCT of Delhi in failing to ensure that the concerned section of the road was kept free from stones and debris.
2. The petitioner states that on 10.08.2015, his son (who, at the material time, was of 27 years old) was returning home on a motorcycle when he met with an accident near pillar No. 75-76 near the Punjabi Bagh Metro Station. The petitioner states that the cause of death was the stones and debris lying on the road. It is submitted that his motor cycle hit the stones lying on the

road resulting in his losing the balance and falling of the motorcycle. The fall from the motor cycle had resulted in serious injuries on his head. He subsequently succumbed to his injuries on 21.10.2015.

3. The petitioner states that PWD had dug up the verge between the roads to provide for a cut in the road and had not taken any precautions to either barricade the road where the debris and stones were heaped or to remove the same. He submits that this is an act of gross negligence on the part of PWD and the deceased and his family are entitled for compensation for the loss of life on account of their negligence.

4. An affidavit has been filed on behalf of the Government of NCT of Delhi, which is affirmed by the Assistant Engineer of the Public Works Department. It is PWD's case that they had not carried out any works in the area and are not responsible in any manner for the accident that resulted in the loss of the petitioner's son's life. It is affirmed that the road where the accident took place was in proper condition and no works were being carried out by the PWD; consequently, no barriers or diversions were put by the PWD. It is affirmed that on the date of the accident, a temporary camp had been set up for *Kanwarias* which was at some distance (50 to 60 paces) from the spot where the accident had occurred. It is suggested that the said *Kanwarias* may have dug up the verge near pillar no. 75 and 76 for their convenience. It is stated that no permission was taken from PWD Department and the Department had no information that a cut had been created at the verge.

5. An FIR dated 11.08.2018 was registered in regard to the said incident. However, the said FIR also does not indicate any further material whereby

this Court can conclude that any digging had been done by the PWD Department. The FIR only indicates that a phone call had been received that a rider of motor cycle was hit with a “big stone” lying on the road and his condition is serious. It is undeniable that PWD is responsible for ensuring that roads are kept in a good condition and it would also be the duty to repair the roads in case the same is damaged (whether with permission or illegally). However, in this case, there is no material to indicate as to when the verge of the road was damaged and by whom. It has been affirmed on behalf of respondent no.2 that it had no information regarding the same.

6. Clearly, if the verge has been damaged illegally, PWD Department cannot be held responsible unless it is shown that the concerned engineers were aware or ought to have been aware at the material time that the road had been damaged. Since there is no material to indicate when the verge was damaged, it is also not possible for this Court to readily infer that PWD Department ought to have been aware of the same.

7. This Court finds that there are several disputed issues that arise in this case and, therefore, it would not be apposite for this Court to readily ascribe the responsibility for the accident on the Public Works Department.

8. The petition is, accordingly, disposed of leaving it open for the petitioner to file an appropriate action and lead such evidence to establish negligence on the part of the concerned authorities.

VIBHU BAKHRU, J

JANUARY 28, 2019/RK