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

+ W.P.(C) 11231/2018

G D SHARMA AND ORS.

..... Petitioners

Through: Mr Vijay Sharma, Mr Bharat Singh
and Mr Anuj Pal, Advocates.

versus

THE MEDICAL SUPERINTENDENT, DR. RAM

MANOHAR LOHIA HOSPITAL, DELHI

..... Respondent

Through: Mr Vijay Joshi and Mr Sanjay
Kumar, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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16.01.2019

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

“I. Issue a writ of Mandamus or any other writ, direction or order directing the respondent to provide compensation to the tune of Rupees 20 lacs to the petitioners for violation of fundamental rights of the petitioners under Article 14, 15 & 21 of the Constitution of India.”

2. It is the case of the petitioners that the wife of petitioner no.1 and mother of petitioner nos.2 and 3, was taken to Dr. N. C. Joshi, Memorial Hospital, Karol Bagh, New Delhi-110005 on 05.05.2018 in a semi conscious state. The said hospital referred the patient to Dr Ram Manohar Lohia Hospital (RML Hospital). It is the petitioners' case that the doctors at RML

Hospital were negligent and had failed to provide the necessary medical attention required by the patient.

3. First of all, it is stated that the patient was referred to C.T. Centre. However, the centre refused to do the C. T. Scan as the patient was unaccompanied by a medical attendant. After a considerable delay, a medical attendant was made available and C. T. Scan was done. It is stated that the condition of the patient was serious but the patient was not provided a bed or admitted to the ICU. The patient continued to languish on a stretcher while the petitioners made incessant requests for provision of the necessary medical facilities.

4. It is alleged that since the medical facilities were not being provided, the petitioner shifted the patient to St. Stephen's Hospital on 05.05.2018. She was admitted to the ICU and despite best efforts, the treating doctors could not save her and she expired on 06.05.2018. It is apparent from the above that the issues raised in the present petition involve disputed questions of fact and it would not be apposite for this Court to entertain the claim for compensation in the given facts.

5. The learned counsel appearing for the petitioner has relied on the decision in the case of ***Paschim Banga Khet Mazdoor Samity and Others v. State of West Bengal and Another: AIR 1996 SC 2426*** in support of their contention that the petitioners would be entitled to compensation in case of failure on the part of the hospital to provide timely emergency medical treatment.

6. Adjudication of the questions involved in the present petition would entail this court examining disputed questions of fact and this court does not consider it apposite to do so in these proceedings.

7. It is, of course, open for the petitioner to institute an appropriate action for seeking compensation, in accordance with law.
8. The petition is disposed of with the aforesaid observations.

JANUARY 16, 2019
MK

VIBHU BAKHRU, J