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

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+ MAC.APP. 178/2015

STATE OF TAMILNADU

..... Appellant

Through: Mr.Deepak Pathak, Advocate

versus

MANJU DEVI & ORS

..... Respondents

Through: Mr.Yogesh Chhabra, Advocate
Mr.Amit Chadha, APP for the State
with SI Amit Kumar, P.S. Subhash
Place
SI Rakesh Kumar, P.S. Maya Puri
Mr.B. Eswara Moorthy, Inspector of
Police, Tamil Nadu Special Police

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+ MAC.APP. 179/2015 & CM APPL.3082/2015

R VEERAJAKKU

..... Appellant

Through: Mr.Deepak Pathak, Advocate

versus

MANJU DEVI & ORS

..... Respondents

Through: Mr.Yogesh Chhabra, Advocate
Mr.Amit Chadha, APP for the State
with SI Amit Kumar, P.S. Subhash
Place
SI Rakesh Kumar, P.S. Maya Puri

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

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02.03.2020

1. SI Amit Kumar, P.S. Subhash Place has produced Vishwanath in terms of order dated 18th May, 2018. Statement of Vishwanath is recorded

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KARKI
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separately in exercise of power under Section 165 of the Indian Evidence Act.

2. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.37,57,906/- has been awarded to respondents No.1 to 5.

3. On 20th October, 2011 at about 8:00 P.M., late Mukesh Kumar was driving his motorcycle when he was hit by a government vehicle bearing No.TN-20G-0309 driven by respondent No.6. The deceased was aged 38 years at the time of the accident and was survived by his widow, two minor children and parents who claimed compensation.

4. The Claims Tribunal took the income of the deceased as Rs.17,397/-, added 50% towards future prospects, deducted 1/4th towards his personal expenses and applied the multiplier of 15 to compute the loss of dependency as Rs.35,22,906/-. The Claims Tribunal awarded Rs.1,00,000/- towards loss off consortium, Rs.25,000/- towards funeral expenses, Rs.1,00,000/- towards care and guidance for the minor children and Rs.10,000/- towards loss of estate. Total compensation awarded is Rs.37,57,906/-.

5. Learned counsel for the appellant urged at the time of the hearing that the claimants have not proved the accident by examining the eye witness, Mr. Vishwanath whereupon this Court issued Court notice to Mr. Vishwanath who is today present in Court and has been examined under Section 165 of the Indian Evidence Act.

6. Mr. Vishwanath is the eye witness of the accident and he has duly proved the accident before this Court.

7. In that view of the matter, there is no infirmity in the award of the Claims Tribunal.

8. Learned counsel for the appellant submits that Mr. Vishwanath did not appear as a witness in the criminal case and his statement cannot be used

in the criminal case. It is clarified that if the witness appears in the criminal case, the appellant would be at liberty to cross-examine him.

9. The appeals are dismissed. The appellant has deposited the entire award amount with the Registrar General of this Court which amount has been disbursed to the claimants. The statutory amount be refunded back to the appellant.

10. Copy of this order be given *dasti* to counsel for the parties under the signature of the Court Master.

J.R. MIDHA, J.

MARCH 02, 2020

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MAC.APP.178/2015, MAC.APP.179/2015

Statement of Vishwanath, s/o Sh. Prakash, aged 32 years, r/o A-10, Hari Vihar, Gurudawara Road, Near Metro Pillar No.817, Kakrola, Delhi

On S.A.

I have brought my Aadhar Card No.8797 5692 8604 (photocopy retained). I run a tea shop in Lajwanti Garden. On 20th October, 2011 at about 8.00 P.M., I was closing my shop when a person came on his motor cycle to buy cigarette which I could not provide as I was closing the shop whereupon that person left and was hit by a government vehicle bearing No. TN 0309 near my shop. I immediately went to the spot. The motorcyclist was crushed under the rear wheel of the government vehicle. The driver of the truck got down and on finding that the motorcyclist has died, he ran away from the spot and went inside the Tihar jail complex.

RO&AC

**J.R. MIDHA, J.
March 02, 2020.**

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Signing Date: 05/03/2020
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