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

+ **FAO 464/2019, CM APPL. 50703/2019&CM APPL. 50704/2019**
SHRIRAM GENERAL INSURANCE CO LTD Appellant

Through: Mr. Naveen Kumar Chauhan, Advocate.

versus

VIRENDER KUMAR & ORS

....Respondents

Through: Mr. A.K. Mishra and Mr. Kishan Singh
Chauhan, Advocates for R-1 & R-2.
Mr. Vatsal Kumar, Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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29.07.2020

The hearing was conducted through video conferencing.

FAO 464/2019&CM APPL. 11940/2020 (by R-1 & R-2 for release of amount)

1. This appeal impugns the order dated 19.03.2019, passed by the Commissioner, Employee's Compensation, awarding an amount of Rs.8,53,160/- to be paid by the insurer to the claimants i.e. the parents of the deceased employee of respondent no. 3. The employer/respondent no.3 has been saddled with a penalty of Rs.4,23,580/-. The latter amount has been deposited. There is no appeal or challenge to the said order by the employer. In the circumstances, let the latter amount be released to the beneficiaries of the Award. Of the aforesaid penalty amount of Rs.4,23,580/-, Rs.75,000/- shall be released directly into the Bank Account(s) of the parents, maintained in a Bank near their place of residence. It said

amount shall be shared equally between the parents.

2. Since the father of the deceased is an employee of DTC, he would be surely have monies to tide over the family's immediate needs. Therefore, the remaining amount shall be kept in eight interest bearing FDRs of equal amounts to mature every successive year, which upon each maturity, shall be disbursed amongst the parents equally alongwith interest accrued thereon.
3. As regards the liability fixed upon the appellant/insurance company, it is not in dispute that the award was passed without hearing the appellant/insurer. The parents' Claim Petition was first dismissed in default. It was subsequently restored and was disposed-off but without due notice to the insurer. It is also not in dispute that after restoration of the Claim Petition, the insurer was never intimated about the restoration or of the next date when the case was to be taken up.
4. In the circumstances, the order fixing liability upon the appellant/insurer cannot be sustained. It is, accordingly, set aside only with respect to the insurer's liability. The case is remanded to the Commissioner, Employee's Compensation for fresh decision apropos appellant/insurer's liability, if any. The parties shall appear before the Commissioner, Employee's Compensation on 14.09.2020. The learned counsel for the parties submit that they will request the learned Commissioner to expedite the disposal of the case, preferably within four months from the date when the case is next listed before the learned Commissioner. The learned counsel for the parties submit that they will assist the learned Commissioner in the proceedings and will not seek any adjournment.

5. The appeal, alongwith all pending applications, is disposed-off in the above terms.
6. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the counsels through e-mail.

NAJMI WAZIRI, J

JULY29, 2020

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