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

Date of decision: 8th March, 2021

+ **CM(M) 201/2021**

SMT. MINA DEVI

..... Petitioner

Through: Mr. Himanshu Sapra, Advocate

versus

SH. SHRESTH JAIN & ORS.

..... Respondents

Through: Mr. Rudra Kahlon and Ms. Vandana
Kahlon, Advocates for
Respondent/Insurance
Company/TATA AIG

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been done through video conferencing.

CM APPL. 9087/2021 (for exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

CM (M) 201/2021

3. The present petition has been filed by the Petitioner challenging the impugned order dated 11th December 2019, passed by the Presiding Officer, Motor Accident Claims Tribunal, Tis Hazari Courts, vide which, the prayer of the Petitioner for premature release of the amount deposited in her favour by the Insurance Company, in the form of an FDR, has been rejected. The Petitioner, in the present petition also prays for release of the said amount in her favour.

4. The brief background is that an accident had taken place in Paschim Vihar, Delhi where the Petitioner's son had unfortunately passed away. An FIR was duly registered and a claim was also filed by the Petitioner under

the Motor Vehicles Act 1988, before the Motor Accident Claims Tribunal (*hereinafter, "Tribunal"*). The matter was referred to the Lok Adalat and an award of settlement to the tune of Rs.13,40,000/- was passed in the Lok Adalat. In the award passed by the Lok Adalat, the total amount was divided amongst various Petitioners, but the period of the FDR was mentioned as five years. The amount awarded in favour of the Petitioner herein is 7,00,000/-. The Insurance Company deposited the said amount and thereafter, the Petitioner moved various applications before the Tribunal for release of the said amount. The release of the said amount has been repeatedly denied by the Tribunal.

5. The Petitioner's case is that the Petitioner is a senior citizen who is over 70 years of age. She is in a precarious financial condition, and accordingly prays for release of the said amount. Today as well, Id. Counsel for the Petitioner has emphasized upon the medical and financial conditions of the Petitioner.

6. A perusal of the orders passed by the Tribunal shows that on 21st August, 2019, the Tribunal observed that the ground of the Petitioner being hand to mouth is not a sufficient ground for the amount to be released. Even in the order dated 11th December, 2019 the Petitioner's prayer for release has been rejected, in spite of the Petitioner having cited extremely adverse conditions such as flooding of her house, and other chronic medical conditions. The tribunal has continuously maintained its stand that even the above mentioned reasons do not constitute sufficient grounds for a premature release of the amount in the FDR.

7. It is clear from a perusal of the award of settlement dated 8th September 2018 passed by the Lok Adalat in **MACT Case No. 619/2017** that

the amount of Rs. 13,40,000/- is not in dispute and has already been settled between the parties. The insurance company has also deposited the said amount. Thus, considering the physical, medical and the financial condition of the Petitioner, there can be no reason whatsoever not to release the said amount in favour of the Petitioner, who is the mother of the deceased and is admittedly over 70 years of age. Ld. Counsel for the Insurance Company has also submitted that the release of the amount is purely within the discretion of this Court as the amount as per the order by the Lok Adalat, has already been deposited by the Insurance Company.

8. The Tribunal ought to have taken a compassionate view in the matter, and to hold that the medical and financial conditions, as also the hand to mouth condition of the Petitioner, are not sufficient grounds for release of the said amount that has been awarded in her favour, is clearly an untenable position taken by the Tribunal. If the amount is not released, the entire purpose may be defeated owing to her age, medical condition and precarious financial condition. It is noted that the deceased was unmarried at the time of his death and the amounts awarded to the various family members by the Lok Adalat are:

<i>KISHORI LAL (father)</i>	<i>Rs. 2,00,000/-</i>
<i>MINA DEVI (mother)</i>	<i>Rs. 7,00,000/-</i>
<i>LAKSHMAN (brother)</i>	<i>Rs. 1,00,000/-</i>
<i>RATNA DEVI (sister)</i>	<i>Rs. 1,50,000/-</i>
<i>SHATROHAN LAL (brother)</i>	<i>Rs. 1,00,000/-</i>

9. Considering the overall facts and circumstances of this case, the sum of Rs. 7 lakhs, lying in an FDR, along with proportionate interest which has been earned on the said amount (subtracting TDS, if liable to be deducted),

be released to the Petitioner, the mother of the deceased, within a period of two weeks from today.

10. The petition and all pending applications are disposed of in the above terms. A digitally signed copy of this order shall be sufficient for the purpose of further processing the release of the said amount.

PRATHIBA M. SINGH
JUDGE

MARCH 8, 2021
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