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

*Date of decision:*03.08.2023

+ **CM(M) 1230/2023**
SH GANESH

..... Petitioner

Through: Mr.S.N. Parashar, Adv.

versus

SH FARJANDA & ORS.

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

CM APPL. 39280/2023 (Exemption)

1. Allowed, subject to all just exceptions.

CM APPL. 39281/2023

2. This application seeks condonation of 27 days delay in re-filing of the appeal.

3. For the reasons stated in the application, the delay is condoned, and the application is allowed.

CM(M) 1230/2023

4. This petition has been filed by the petitioner challenging the order dated 20.05.2023 (hereinafter referred to as the 'Impugned Order') passed by the learned Motor Accidents Claims Tribunal-02, South West, Dwarka Court, New Delhi (hereinafter referred to as the



learned 'Tribunal') in M.Ex. No.40/2023, directing the Bank to release a sum of Rs.30,000/- per month to the petitioner herein, from the awarded amount that is kept in the form of Fixed Deposit Receipts (in short, 'FDRs').

5. The learned counsel for the petitioner submits that in the present case, the petitioner had met with an accident on 13.06.2006, in which both his legs were crushed, due to which, he became permanently disabled and his disability was assessed at 100%. The petitioner filed the Claim Petition before the learned Tribunal on 26.09.2006. The learned Tribunal by its Award dated 05.10.2009 awarded only a sum of Rs.3,38,000/- along with 9% per annum interest in favour of the petitioner. The petitioner challenged the said Award by way of an appeal, being MAC.APP. 64/2010. This Court, by its judgment and order dated 06.09.2017, set aside the Award and remanded the matter back to the learned Tribunal. By an Award dated 29.04.2022, the learned Tribunal enhanced the compensation amount to Rs.23,17,800/- along with interest at the rate of 9% per annum, that is a total of Rs.55,93,900/-, and also awarded a sum of Rs.5,00,000/- to the petitioner towards the artificial limb. By the said Award, it was directed that the 10% of the awarded amount be disbursed to the petitioner, while the remaining amount be kept in FDRs (approximately 450 FDRs) in a nationalized bank with each FDR being of Rs.10,000/- to be released on a monthly basis to the petitioner. The said Award gained finality inasmuch as it was not challenged by the petitioner or the respondent no.3. The petitioner, thereafter filed an application seeking release of Rs.20 lacs for his



learned Tribunal, vide order dated 12.09.2022. The petitioner again filed an application before the learned Tribunal to at least increase the quantum of the monthly released amount from Rs.10,000/- to Rs.1,00,000/-. The learned Tribunal by its Impugned Order took note of the fact that if the amount is released in terms of the Award, such release would take another 37.5 years. The petitioner is already aged around 62 years and, therefore, the compensation awarded to him will become illusory. Based on the above submission made by the learned counsel for the petitioner, the learned Tribunal by its Impugned Award has enhanced the monthly released amount to Rs.30,000/- per month.

6. The learned counsel for the petitioner submits that even this enhanced amount will take more than 15 years for the total amount to be released to the petitioner. He submits that the petitioner is a well educated person and was working as a Sub- Inspector with the Delhi Police. He has now retired from the service. He submits that by such a prolonged release, in fact, the compensation awarded to the petitioner would become illusory. He submits that the petitioner is in a position to better invest the awarded amount so as to make his life better.

7. I have considered the submissions made by the learned counsel for the petitioner.

8. Keeping in view the relief sought, I do not deem it necessary to issue notice of the petition to the respondents. As stated by the learned counsel for the petitioner, the Award dated 29.04.2022 has been accepted by the respondents and the amount of compensation stands



therefore, be between the petitioner and the Court.

9. Keeping in view the fact that the accident took place in 2006 and it is only in the year 2022 that the compensation amount was finally determined in favour of the petitioner; the petitioner is presently aged around 62 years; he has lost both his lower limbs and his disability was assessed at 100%, in my view, the release of compensation in such a meager amount, as directed by the learned Tribunal, would make the same illusory for the petitioner. The petitioner needs this compensation today rather than tomorrow for a better living.

10. Accordingly, the Impugned Order is modified. It is directed that the Branch Manager, UCO Bank, Debar Road, Civil Lines, Delhi-110054, shall release a sum of Rs.1,00,000/- per month to the petitioner from the awarded amount kept in the form of FDRs. For the said purpose, the FDRs shall be encashed and the amount realized on such encashment, including the interest, shall be re-invested in fresh FDRs of Rs. 1,00,000/- each, encashable each month on a progressive basis.

11. The present petition is allowed in the above terms.

NAVIN CHAWLA, J

AUGUST 3, 2023/rv/am

Signature Not Verified

Digitally Signed By: SUNIL

Signing Date: 05.08.2023

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CM(M) 1230/2023

Page 4 of 4