



2024:DHC:8736



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

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*Date of Decision: 05.11.2024*+ **W.P.(C) 11572/2018****HARIJINDER KAUR AND ANR.**

.....Petitioners

Through: Mr. Amit Kumar Maihan, Adv.

versus

**GOVERNMENT OF NCT OF DELHI AND ANR.....Respondents**Through: Mr. Hetu Arora Sethi, ASC for  
R-1.

Mr. Vinay Rathi, Adv. for R-2.

**CORAM:****HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. The present Petition has been filed on behalf of the Petitioners impugning the order dated 26.02.2018 [hereinafter referred to as "the Impugned Order"] passed by the Delhi Legal Services Authority. By the Impugned Order, the Application for compensation filed by the Petitioners was rejected on the ground that the Application was beyond the limitation period as is prescribed in Clause 16 of the Delhi Victim Compensation Scheme, 2015 [hereinafter referred to as "the Scheme"].

2. Since the date of the accident of the husband of the Petitioner was 28.10.2013, both the parties submit that the Scheme of 2015 will be applicable.

3. Learned Counsel for the Petitioners submits that the Impugned Order suffers from an infirmity. He submits that the Application was dated 01.08.2017 and thus the Application has been filed within the prescribed



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period of limitation. He seeks to rely upon Clause 16 of the Scheme in this regard.

4. Section 16 of the Scheme provides that no claim shall be entertained after a period of three years from the date of occurrence of the offence or conclusion of trial. Clause 16 of the Scheme reads as under:

*“16. **LIMITATION** - Under the Scheme, no claim made by the victim or his/her dependent(s), under sub-section (4) of section 357A of the Code, shall be entertained after a period of 3 years from the date of occurrence of the offence or conclusion of the trial.”*

5. An alternate argument has been raised by the Petitioner that since this is an untraced report, the trial has not concluded and in these circumstances, the limitation continues.

6. The limitation as is prescribed under the Scheme is for a period of three years from the date of occurrence of the offence or the conclusion of the trial. The order dated 25.08.2014 was passed by the learned judge/MACT-I, New Delhi wherein it was held that Detailed Accident Information Report (DAR) was filed and the report of the Investigation Office was that since no vehicle was found and nor was there was any eye witness to the accident, hence an “untrace” report was filed.

7. The learned Trial Court after recording the statement of the mother of the deceased held that the DAR as filed is “untraced” and may be revived as and when the vehicle of the accused is traced and the Petition was disposed of. The relevant extract of the order dated 25.08.2014 passed by the learned Trial Court is reproduced below:

*“Statement of mother of deceased recorded separately in which she has stated that she is satisfied with the investigation and has no*



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*objection if the DAR is filed.*

*In the circumstances, **the DAR is filed as untraced which may be revived as and when accused/offending vehicle are traced or claim petition is filed.***

*File be consigned to RR."*

[Emphasis supplied]

8. Subsequently, the Petitioners filed an Application seeking compensation under the Scheme. The Application was listed before the MACT Court and on 08.09.2017, the Application was allowed directing the Petitioners to approach the Secretary, Legal Services Authority, for compensation under the policy.

9. As stated above, the Application was filed by the Petitioner on 01.08.2017, which is evident from the order dated 08.09.2017. However, the order dated 26.02.2018 passed by the Legal Services Authority rejected the Application for compensation as being time barred.

9.1 The only reason that has been set out in the Impugned Order is that the Application for "*grant of compensation has been filed on 13.09.2017*" which is beyond the limitation period. The relevant extract of the Impugned Order is set out below:

**"Now this application for grant of compensation has been filed on 13.09.2017 which is beyond the limitation period as described in Clause 16 of the Delhi Victim Compensation Scheme, 2015 which read as under;-**

*"Under the Scheme, no claim made by the victim or his/her dependent(s), under sub-section (4) of section 357A of the Code, shall be entertained after a period of 3years from the date of occurrence of the offence or conclusion of the trial."*

10. A perusal of the order dated 08.09.2017 passed by the learned Judge/MACT, New Delhi clearly states that the file was taken up on an



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Application dated 01.08.2017 "*seeking recommendation of their claim for DLSA for claiming compensation under Victim Compensation Scheme*". In the present case, the incident took place on 28.10.2013. However, an order was passed by the MACT-I concluding that DAR is untraced on 25.08.2014. A three years' period from that date would expire on 25.08.2017, while the Application claiming compensation has admittedly been filed on 01.08.2017. Thus, the Application has been filed within the limitation as is set out in the Scheme.

11. Accordingly, the Impugned Order dated 26.02.2018 is set aside.

12. Respondent No.2 is directed to examine the Application of the Petitioners for grant of compensation *de novo*. All rights and contention of the parties are left open in this regard.

13. The Petition is accordingly disposed of.

14. Parties will act based on the digitally signed copy of the order.

**TARA VITASTA GANJU, J**

**NOVEMBER 5, 2024/r**

[Click here to check corrigendum, if any](#)