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

% ***Date of Decision: 14.07.2025***

\+ **MAC.APP. 47/2021 & CM APPL. 2680/2021**

SHRIRAM GENERAL INSURANCE CO. LTD. .....Appellant

Through: Mr. Mohammad Mustifa, Ms.Arpita Biswas and Mr. Md. Maroof, Advocates.

versus

KHUSHABU DEVI & ORS. .....Respondents

Through: None.

CORAM:
HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. The present Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 seeking to challenge an Award dated 01.12.2020 passed by the learned Presiding Officer, MACT-2, North District, Rohini Courts, Delhi [hereinafter referred to as "Impugned Award"]. By the Impugned Award a sum of Rs.22,71,570/- has been granted along with 9% interest.

2. The Predecessor Bench of this Court had by an order dated 27.01.2021 recorded that the Appellant has paid a sum of Rs.4.5 lacs to one of the Claimants, i.e., Respondent No.1. This amount was paid prior to filing of the Detailed Accident Report [DAR].

3. Learned Counsel for the Appellant submits that the learned Trial Court erred in not adjusting this amount prior to the award of compensation to the Respondent/Claimant. Learned Counsel submits that he is not pressing the other grounds of challenge before this Court in view of the settled position of law and confines this Appeal to a plea for adjustment of the amount already paid.

4. Learned Counsel for the Appellant seeks to rely upon a finding of the learned Trial Court wherein Respondent No.1, PW-2 has admitted receipt of Rs.4 lacs from the Insurance Company prior to filing of the DAR. The relevant extract of the Impugned Order is below:

> *"14. The claimants are the widow, children and mother of deceased Sh. Lalan Yadav. Smt. Khushabu Devi widow of deceased appeared in witness box as PW-2. She deposed that the deceased was aged about 24 years at the time of accident and he was working as Labour and was earning Rs.10,000/- per month. She further deposed that all the petitioners were financially dependent upon the earnings of deceased. She has relied upon the following documents:*

Sr.No.	***Description of documents***	***Remarks***
1.	*DAR*	*Ex. PW2/1 (Colly)*
2.	*Copy of her Aadhaar Card*	*Ex. PW2/2*
3.	*Copies of Aadhar Card of children of deceased*	*Ex. PW2/3 (Colly)*
4.	*Copy of voter I card of deceased*	*Mark A*

> *15. **During her cross examination on behalf of insurance company, <u>she admitted that she had already received a sum of Rs.4,00,000/- from the insurance company prior to the filing of DAR</u>**. She denied the suggestion that the said amount was wrongly paid to the petitioners or that insurance company is entitled to recover the same from them. She further deposed that she could not produce any documentary proof to show that deceased was working as labourer or he was*

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earning Rs. 10,000/- per month at the time of accident. She deposed that her father in law had predeceased her husband. She denied the suggestion that her mother in law was not residing with her son at the time of accident. She volunteered that she was residing with them at their native place in Bihar and deceased was residing and working for gain in Delhi. She further deposed that she could not produce any proof to show that deceased was actually residing or working for gain at Delhi at the time of accident. She admitted that in copy of voter I card of deceased, his residential address is mentioned as that of Bihar. He denied the suggestion that deceased was not working for gain in Delhi at the time of accident. He further denied the suggestion that deceased was unemployed or that he was not earning anything at the time of accident."

5. None appears on behalf of the Respondents despite service.

6. The Predecessor Bench of this Court had by its order dated 27.01.2021 directed release of the entire compensation amount holding back a sum of Rs.4.5 lacs towards the amount already paid and a sum of Rs.1.2 lacs towards the amount awarded for 'loss of consortium' and had also directed that the release of interest shall be calculated at 6% p.a. The relevant extract of the order dated 27.01.2021 of this Court is set out below:

> ***"6. In the meantime, the appellant shall deposit the entire awarded amount with the Tribunal within a period of three weeks from today and out of the deposited amount, the Tribunal shall release the compensation amount after holding back a sum of Rs.4,50,000/- towards the amount already paid and Rs.1,20,000/- towards the amount awarded for 'Loss of Consortium'***
>
> ***7. The Tribunal shall also release the interest calculated @6% per annum in terms of the scheme of disbursal stipulated in the subject Award and the balance amount shall be kept in an interest-bearing fixed deposit."***
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> [Emphasis supplied]

7. Since there is admission of Respondent No.1 that she has received a sum of Rs.4 lacs, which is also reflected in the Impugned Award and given

the limited challenge in this Appeal, this Court deems it apposite to dispose of the Appeal directing that after deducting a sum of Rs.4 lacs from the amounts already deposited, the amounts inclusive of up-to-date interest on Rs.4 lacs shall be released in favour of the Appellant/Insurance Company. The balance remaining, inclusive of up-to-date interest thereon, shall be released in favour of the Respondent/Claimant(s) in accordance with the scheme as set out in the Impugned Award.

8. The statutory amount deposited by the Appellant shall also be released in favour of the Appellant along with interest accrued thereon.

9. The Appeal is disposed of in the aforegoing terms. Pending Application stands closed.

10. The parties shall act based on a digitally signed copy of the order.

TARA VITASTA GANJU, J

JULY 14, 2025/pa