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

+ **MAC.APP. 500/2023**

HARINDER CHAUHAN AND ANR.Appellants

Through: Mr. Sandeep Sharma, Sr.
Adv. with Mr. Aman
Dhyani, Ms. Kanchan
Semwal & Mr. Aditya
Vashisht, Advs.

versus

NEELAM SHEIKH AND ORS.Respondents

Through: Mr. S.N. Parashar, Adv.
for R1 to R4

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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11.02.2025

CM APPL. 72100/2024 (for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

MAC.APP. 500/2023, CM APPL. 58067/2023, CM APPL. 58068/2023, CM APPL. 71960/2024, CM APPL. 72099/2024

3. The present appeal is filed challenging the award dated 26.06.2020 (hereafter '**the impugned award**') passed by the learned Presiding Officer, Motor Accident Claims Tribunal, Saket Courts in MACT No. 679/2018.
4. The impugned award is challenged by the appellant essentially contending contributory negligence on the part of the victim.
5. The learned Senior Counsel for the appellants submits that the matter proceeded *ex parte* before the Tribunal. He submits that the appellants were not aware of the proceedings before the



learned Tribunal.

6. He submits that the accident occurred in Faridabad and the DAR was filed before the learned Tribunal in Faridabad. He submits that, in such circumstances, the appellants were of the *bona fide* view that the proceedings, if any, would be carried out before the Courts in Faridabad.

7. He submits that the appellants came to know about the passing of the impugned order only after they received the notice from the learned Executing Court.

8. He submits that the Medical Legal Report of the victim clearly indicates that the victim was under the influence of alcohol at the time of accident. He relies upon the statement made by the Doctor in the criminal proceedings pursuant to registration of the FIR.

9. He further submits that in order to show his *bona fide*, a sum of ₹10,00,000/- has already been deposited before the learned Executing Court.

10. The learned counsel for the respondent submits that the appellant is not disputing the liability to pay, however, is only challenging the compensation amount on account of alleged contributory negligence. He, however, does not object to one opportunity being granted to the appellant to represent his case before the learned Tribunal.

11. The case of the appellant at best is about deduction in the compensation amount on account of contributory negligence.

12. In such circumstances, even if the appellant is to succeed, at least 50% of the amount still appears to be payable to the victim by the appellant.

13. In such circumstances, this Court considers it apposite to direct the appellant to deposit 50% of the compensation amount



before the learned Executing Court which shall be released to the claimant in the manner as provided in the impugned award while directing the learned Tribunal to consider the matter afresh after giving an opportunity to the appellant to present his case.

14. The impugned award is accordingly set aside.

15. The learned Tribunal is directed to consider the matter afresh, after giving opportunity to the appellant to file his defence on the appellant depositing the balance sum of ₹7,00,000/- before the learned Executing Court within a period of three weeks.

16. The amount deposited by the appellant can be released in favour of the claimants in the manner as provided in the impugned award.

AMIT MAHAJAN, J

FEBRUARY 11, 2025

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