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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ CM(M) 298/2023, CM APPL. 9122/2023 -Stay.  
SUJAAT ALI (DECEASED) THROUGH LRS ..... Petitioner

Through:

versus

GOVERNMENT OF N.C.T OF DELHI & ORS. .... Respondents

Through: Mr. S.Sahu for panel counsel  
GNCTD, Divyam Nandrajog, Advs.  
for R-1 alongwith SI Giri Raj, PS  
Kamla Market.

Mr. S.N.Sinha, Advocate for R-4.

**CORAM:**

**HON'BLE MS. JUSTICE REKHA PALLI**

**ORDER**

**24.02.2023**

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**CM APPL. 9123/2023 -Ex.**

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

**CM(M) 298/2023**

3. The present petition under Article 227 of the Constitution of India preferred by the legal heirs of Mr. Sujaat Ali assails the order dated 15.12.2023 passed by the learned Motor Accident Claim Tribunal. Vide the impugned order, the learned Tribunal has, after taking into account the Detailed Accident Report (DAR) filed by the Investigating Officer, directed that the grave of Mr. Sujaat Ali be dug up and a DNA test be performed on his body to verify whether the petitioners are his legal heirs, as claimed by them.
4. Learned counsel for the petitioners submits that one of the reasons for issuing such directions by the learned Tribunal is that in the opinion of the learned Tribunal, the petitioners were greedy persons who were

trying to seek compensation on account of the death of Mr. Sujaat Ali, even though they were neither related to him nor was the deceased infact Mr. Sujaat Ali. He submits that this presumption was wholly incorrect. Even otherwise, once the Investigating Officer had been directed to conduct further investigation, the report whereof was still awaited, no such directions which would amount to affronting the dignity of a dead person, could have been passed by the learned Tribunal.

5. Issue notice. Ms.S.Saho and Ms.S.N. Sinha accept notice on behalf of the respondent nos.1 & 4 respectively. Upon the petitioner taking steps issue notice to respondent nos.2 & 3 through all permissible modes.
6. While learned counsel for the respondent no.1 submits that the report in terms of the directions issued by the learned Tribunal on 01.12.2022 for further investigation will be submitted to the learned Tribunal within two weeks, learned counsel for the respondent no.4 seeks to defend the impugned order by contending that once there was some doubt about the identity of the deceased, the learned Tribunal was justified in issuing directions for conducting his DNA test.
7. Having considered the submissions of the parties, this Court is prima facie unable to appreciate this stand taken by the respondent no.4 or the approach adopted by the learned Tribunal. Once a further investigation by the Police Authorities has already been directed, the impugned directions for digging up of the grave of a dead person to carry out a DNA test, were in my view wholly unwarranted. It appears that the learned Tribunal has failed to appreciate that the

DNA test cannot be ordered in such a routine manner. In this regard, reference may be made to a recent decision of the Apex Court in SLP (C) No. 9855/2022 titled *Aparna Ajinkya Firodia v. Ajinkya Arun Firodia*.

8. Taking into account that the matter before the learned Tribunal was on the basis of a DAR and not on the basis of any claim preferred by the petitioners, even the observations that the petitioners were greedy persons who were trying to extract compensation also appears to be unjustified.
9. In these circumstances, while granting time to the respondents to file their counter affidavit within four weeks, the operation of the impugned order is stayed till the next date. Rejoinder, if any, be filed within three weeks thereafter.
10. List on 19.05.2023.

**FEBRUARY 24, 2023**  
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**REKHA PALLI, J**