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

Date of decision: 20.11.2023

+ **CM(M) 298/2023 & CM APPL. 9122/2023**
SUJAAT ALI (DECEASED) THROUGH LRS

..... Petitioner

Through: Mr.Kamran Malik & Mr.
Ashraf Farooqi, Advs.

versus

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

..... Respondents

Through: Mr. Divyam Nandrajog, Panel
Counsel, GNCTD with Mr.
Jatin Dua, Adv. along with Mr.
Giri Raj, SI, P.S. Kamla
Market.

Mr.Vibhor Garg & Ms.Ishita
Mehta, Advs. for R-2 & 3.

Mr.Sankar N. Sinha, Adv. for
R-4.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed challenging the Order dated 15.12.2022 (hereinafter referred to as 'Impugned Order') passed by the learned Motor Accident Claims Tribunal, Central District, Tis Hazari Court, Delhi (hereinafter referred to as 'Tribunal') in MACT No.166/2022 titled *Saujat Ali (deceased) thr. LRs v. Rahul & Ors.*



2. By the Impugned Order, the learned Tribunal has observed that the person who met with the accident as per the Detailed Accident Report, had been taken to his native village solely for the purpose of burial, while he was still alive, and this raised suspicion. Further, the learned Tribunal, in order to rule out any foul play, has directed that the Investigating Officer should undertake steps to ascertain the identity of the deceased, including the DNA match of the remains of the deceased with the LRs/claimants/petitioners herein.

3. The petitioners are aggrieved of this direction.

4. Pursuant to the Order dated 24.02.2023 of this Court, the respondent no.1 has filed a Status Report dated 16.05.2023 *inter alia* informing this Court of the investigation which has been carried out by the police to ascertain the identity of the deceased. It appears to indicate that the identity has been established through further investigation in form of scrutiny of Ration Card, Old Voter List (as per 01.01.2014) received from the District Election Commission, Certificate from the Pradhan of Gram Panchayat, and local inquiries. It also reveals that the doctors at the Ganga Ram Hospital had opined that there were minimum chances of survival of the deceased despite best efforts and at this stage, the deceased was shifted to Shri Ram Murti Smarak Institute of Medical Science, Bareilly, Uttar Pradesh by the petitioner, where he expired during treatment on 30.11.2021.

5. The learned counsel for the petitioner also submits that the learned Tribunal has erred in drawing an adverse inference of suspicion only from the fact that the deceased was taken to his home town in Uttar Pradesh (in short 'U.P.') by observing that he was so



taken for purposes of burial. He submits that, in fact, the deceased was taken to his home town in U.P. for further treatment, where he eventually succumbed to his injuries.

6. In view of the above Status Report, in my opinion, the direction contained in the Impugned Order cannot be sustained. The petitioners/claimants are to prove their case and subsequent entitlement to compensation before the learned Tribunal by leading their evidence. The evidence so produced can always be confronted and rebutted by the respondent nos.2 to 4, being the driver, the owner, and the insurer of the Offending Vehicle, respectively, in accordance with the law. There was no warrant for the learned Tribunal to have directed the dead body of the deceased to be exhumed for purposes of carrying out the DNA.

7. The Impugned Order is, accordingly, set aside.

8. The petition is allowed in the above terms. The pending application also stands disposed of.

NAVIN CHAWLA, J

NOVEMBER 20, 2023/KR/RP

Click here to check corrigendum, if any