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

% *Date of Decision: 04<sup>th</sup> July, 2025*

+ CM(M) 4197/2024 & CM APPL. 38512/2025  
KAMLA DEVI

.....Petitioner

Through: Mr. Sandeep Singh Nainwal,  
Advocate.

versus

UNION OF INDIA AND ORS

.....Respondent

Through: Ms. Nidhi Raman with Mr. Akash  
Mishra, Advocate (CGSC) for UOI.  
Mr. Gourav M., Proxy Counsel for  
Ms. Avni Singh, Panel Counsel for  
GNCTD.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ JAIN**

**J U D G M E N T (oral)**

**CM APPL. 38511/2025 (for early hearing)**

1. Petitioner seeks early hearing of the main petition, which is now scheduled for further consideration on 10.09.2025.
2. Since the learned counsel for the respondents are also present today, with the consent of everyone, the main petition has been taken up today itself for consideration.
3. The application stands disposed of in aforesaid terms.

**CM(M) 4197/2024**

4. The point raised in the present petition is a very short and precise.
5. The petitioner has filed a suit seeking damages of Rs.25 lacs.
6. Her case, in brief, is to the effect that when her son returned from the School on 03.02.2012, he complained of a severe headache and she took



him, initially, to Lal Bahadur Shastri Hospital and then to All India Institute of Medical Sciences (AIIMS) and Safdarjung Hospital.

7. According to her, her son died on account of negligence in providing requisite and timely treatment to her son by the said hospitals.

8. Earlier, she had filed a writ petition which was disposed of while granting her permission to take appropriate proceedings, in accordance with law and it was in the abovesaid background that she had filed the suit as an *indigent person* way back in the year 2015.

9. Learned counsel for the petitioner submits that petitioner has already examined six witnesses and the case is now at the stage of defendant's evidence. He also submits that though the affidavits have been submitted by some of the defendants but these are yet to be tendered in evidence.

10. The request made by the petitioner before the learned Trial Court was, merely, to the effect that she may be permitted to examine one Dr. Anurag Prakash. Said Doctor was, earlier, serving with Lal Bahadur Shastri Hospital and, according to the petitioner, the testimony of such Doctor may be relevant for the purposes of the issue raised in the suit in question.

11. Such request, however, has been declined by the learned Trial Court on the premise that even as per the averments appearing in the plaint, Dr. Anurag Prakash had not come inside the emergency room and remained outside along with the Driver of the Ambulance and, therefore, his testimony would be of no avail.

12. It is not a case where name of Dr. Anurag Prakash does not stand reflected in the averments made in the plaint. While deciding any such application to the effect whether any witness needs to be examined or not, the learned Trial Court, generally speaking, should not pre-judge and pre-



weigh the testimony of any such witness. The aspect of relevancy is the only decisive consideration.

13. Admittedly, said witness was, earlier, serving one of the defendant hospital and as per the averments made in the plaint, he accompanied the patient to AIIMS. According to the case of the petitioner, since there was no timely treatment given to her son, the damages are being sought and, therefore, the present petition is disposed of with the direction to learned Trial Court to permit examination of said witness.

14. The next date before the learned Trial is stated to be 26.07.2025.

15. In order to ensure that there is no further delay in the matter, the plaintiff would be permitted to approach the learned Trial Court well in advance with requisite prayer, so that, the steps for the purposes of summoning said witness are taken in advance so that the witness appears before the learned Trial Court on the date fixed itself.

16. The petition stands disposed of in aforesaid terms.

17. Pending application, if any, stands disposed of in aforesaid terms.

18. The next date i.e. 10.09.2025 stands cancelled.

**(MANOJ JAIN)  
JUDGE**

**JULY 4, 2025/ss/SS**