



\$~25

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

% *Date of Decision: 10<sup>th</sup> March, 2025*

+ W.P.(C) 4735/2008

MOHINDER SINGH & ORS. ....Petitioners

Through: Mr. Sunil Mendirata, Advocate

versus

MCD .....Respondent

Through: Mr. H.S. Phoolka, Senior Advocate  
with Ms. Aakanksha Kaul and Ms. Rhea  
Borkotoky, Advocates for MCD.

**CORAM:**

**HON'BLE MS. JUSTICE JYOTI SINGH**

**JUDGEMENT**

**JYOTI SINGH, J. (ORAL)**

1. This writ petition is preferred on behalf of the Petitioners under Articles 226 and 227 of the Constitution of India for a direction to MCD to pay compensation to the Petitioners to the tune of Rs. 10 lacs with interest.
2. To the extent relevant, the facts are that son and daughter-in-law of Petitioner No. 1 were returning back from a marriage ceremony on 19.02.2007 on a two-wheeler scooter. On reaching *Ghanta Ghar*, suddenly, a stray cattle came on the road and hit the scooter and both of them fell off. Large number of people gathered at the spot and Police was also called. Son of Petitioner No. 1 suffered major injuries and was rushed to Jagjeewan Ram Hospital, where he succumbed to his injuries on 21.02.2007.
3. Petitioners No. 2 and 3 are grand children of Petitioner No. 1 and it is averred in the petition that his daughter-in-law left the matrimonial home



and the children and has re-settled. Petitioner No. 1 is a senior citizen and has no source of livelihood and has the responsibility of maintaining the grand children. Present petition was filed seeking compensation for untimely death of Petitioner No. 1's son alleging negligence on behalf of MCD in failing to keep the stray cattle away from the roads where there is flow of traffic.

4. On 24.01.2025, Court had requested Mr. H.S. Phoolka, learned Senior Counsel and Ms. Aakanksha Kaul, learned counsel for MCD to examine the matter as also to convene a meeting with the concerned officials of MCD to see if compensation can be paid to the Petitioners as per applicable law. Court is apprised that a meeting was convened wherein it was decided to pay a compensation of Rs. 4,68,800/- to the Petitioners and the chart giving the various heads is scanned and placed below, for the ease of reference:-

Salary (In Rs.)	3350 X 12	40200/-
Deduction for personal expenses	40200 X 1/3 (13400/-)	40200-13400=RS.26,800/-
Age factor	26800 X 16	Rs. 4,28,800/-
Funeral Expenses	5000	Rs. 5,000/-
Loss of Consortium	10000	Rs. 10,000/-
Loss of love & affection	25000	Rs. 25,000/-
Total		Rs. 4,68,800/-

5. Mr. H.S. Phoolka, learned Senior Counsel submits that the calculation is in consonance with the judgment of this Court in *Shakuntala v. Govt. of NCT of Delhi & Anr., 2009 SCC OnLine Del 1736*, which was upheld by the Division Bench in LPA No. 348/2009, titled '*MCD v. Shakuntala and Anr.*', decided on 25.08.2009, filed by MCD challenging the judgment of



the learned Single Judge. Additionally, Mr. H.S. Phoolka fairly points out that the Division Bench has granted simple interest at the rate of 6% per annum from the date of the death of the deceased.

6. Learned counsel for the Petitioners has no objection to the amount of compensation offered by MCD but urges that interest may be granted in terms of the order of the Division Bench considering that the deceased died in 2007 and this writ petition is pending since the year 2008.

7. Having heard learned Senior Counsel and other counsels for MCD as also counsel for the Petitioners, Court is in agreement with the MCD that compensation in the sum of Rs. 4,68,800/- be granted to the Petitioners as this is in consonance with the formula accepted by the Division Bench in LPA No. 348/2009, titled '*MCD v. Shakuntala and Anr.*', decided on 25.08.2009. In *Shakuntala (supra)*, the learned Single Judge was dealing with a writ petition filed by the Petitioner seeking compensation of Rs. 10 lacs alleging that negligence and dereliction of public duty on the part of MCD resulted in the untimely death of her husband. The deceased was a fruit vendor who carried on his trade from a roadside handcart. On the fateful day, when the deceased was selling fruits, two fighting bulls came by and in the ensuing melee, he fell and entangled between the fighting bulls, he was badly mauled. Deceased was shifted to GTB Hospital but after remaining under treatment for a while, he succumbed to his injuries. The learned Single Judge observed that relief of compensation under public law for injuries caused on account of negligent action or inaction or indifference of public functionaries was a part of evolving public law jurisprudence in India and placed reliance on several judgments in this context pronounced by the Supreme Court. Holding MCD guilty of negligence for failing to



ensure proper supervision in the area to avoid the menace of stray cattle, the Court directed MCD to pay Rs. 10 lacs as compensation taking note of the fact that deceased was 40 years and was survived by his widow and five children, three of whom were minor, as also dependant parents.

8. This judgment was assailed by the MCD before the Division Bench in LPA No. 348/2009, titled '*MCD v. Shakuntala and Anr.*', which was dismissed on 25.08.2009 upholding the judgment of the learned Single Judge. MCD had essentially challenged the quantum of compensation awarded. As the order of the Division Bench indicates and rightly flagged by Mr. H.S. Phoolka, MCD had placed before the Division Bench a sheet indicating compensation payable on the basis of MACT cases, wherein a host of factors were considered including the wages payable to the deceased at the time of death, age of the deceased, compensation due to loss of consortium and loss of love and affection etc. Taking the age of the deceased as 40 years, multiplier of 16 was applied. Additionally, Court awarded 6% simple interest from the date of death. Against the order of the Division Bench, MCD filed SLP No. 27349/2009, which was dismissed on 16.11.2009 by the Supreme Court. Relevant passages from the order of the Division Bench is as follows:-

*“Mr. Phoolka placed on record a sheet indicating compensation payable on the basis of MACT cases. The relevant portion of the calculation sheet reads as under :-*

*1. Since there is no production of any income proof/salary slip etc. therefore the income of the deceased will be deemed as per the minimum wages applicable at the time of the death of the deceased. Therefore, the calculation of the compensation of the deceased will be as follows:*

*a) The minimum wages applicable at the time of death of the deceased i.e. as on 23.01.2005 = Rs.2895/-.*

*b) Deduction for personal expenses i.e. 1/3 of the minimum wages =*



$1/3 \times \text{Rs.}2895 = \text{Rs.}965/-$ .

c) *Since the age of the deceased at the time of death was 40 years therefore the Multiplier of 16 would be applicable.*

d) *Compensation due to death of the deceased = Rs.1930 x 12 x 16 = Rs.3,70,560/- .*

e) *Funeral Expenses = Rs. 2000/-*

f) *Compensation due to loss of Consortium = Rs.5,000/-.*

g) *Compensation due to loss of love and affection = Rs.5000/-.*

h) *Total Compensation = (d) + (e) + (f) + (g) = Rs.3,70,560/-+ Rs.2000/- + Rs.5000/- + Rs.5000/- = Rs. 3,82,560/-.*

i) *6% Simple Interest since the death of deceased = Rs.3,82,560/-x 6 x 4.5 100 = Rs.1,03,291.20*

j) *Gross compensation including interest = (h) + (i) = Rs. 3,82,560/- + Rs.1,02,291.20 . . = Rs.4,85,851.21*

2. *That as per the basis of the MACT cases the compensation of the deceased is Rs.4,85,851.21."*

xxx

xxx

xxx

*In our view, the liability of appellant-MCD to pay compensation to respondent cannot be disputed as deceased husband of the respondent No. 1 died due to an injury caused by a raging bull on a public road. Since deceased respondent was the sole bread earner of his family which comprises seven dependants including his wife and five children, we are of the view that the compensation calculated by appellant-MCD is not appropriate inasmuch as it awards very meager amount towards consortium and it has been done on the basis of minimum wages. We are further of the opinion that the calculation submitted by respondents is slightly on the higher side. Consequently, in our view, ends of justice would be met if a sum of Rs. 6.50 lacs is awarded as compensation to the respondents. Out of aforesaid amount, a sum of Rs. 1 lac will be immediately released by appellant by way of a bank draft in respondent No. 1's favour in view of the fact that one of the respondents' daughters is of marriageable age. The remaining compensation amount of Rs. 5.50 lacs will be paid by appellant to respondent No. 1 within three weeks by means of an account payee cheque drawn in the name of UCO Bank A/c Shakuntala, Delhi High Court Branch, New Delhi. The said cheque would be handed over to Mr. M.M. Tandon, Member Retain-Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400), who would deposit the cheque and create an Fixed Deposit Receipt for three years. The interest on the aforesaid fixed deposit shall be paid quarterly by automatic credit of interest in the Savings Account of the respondent*



*No. 1. The particulars of the Savings account shall be intimated by the respondents? counsel in writing to Mr. Sanjiv Sabharwal, counsel for the appellant. Withdrawal from the aforesaid account shall be permitted to the respondent No. 1 after due verification and the Bank shall issue a photo identity card to the respondent to facilitate her identification. The original fixed deposit receipt shall be retained by the bank in the safe custody. However, the original pass books shall be given to the respondent No. 1 along with the photocopy of the FDR. The original fixed deposit receipt shall be handed over to the respondent at the end of the fixed deposit period. No loan, advance or withdrawal shall be allowed on the said fixed deposit receipt without the permission of this court. Half yearly statement of account be filed by the bank in this court. On the request of the respondent No. 1, the bank shall transfer the savings account to any other nationalized bank according to the convenience of the respondent No. 1. Respondent No. 1 shall furnish all the relevant documents for opening of the saving bank account and fixed deposit account to Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi. In case respondent requires the money for some unforeseen emergency, she would be at liberty to move this Court by way of an appropriate application.*

*Copy of the order be given dasti to counsel for both the parties under the signatures of the Court Master. Copy of this order be also sent to Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi through the UCO Bank, High Court Branch under the signature of Court Master.*

*The appeal stands disposed of.”*

9. Mr. H.S. Phoolka, learned Senior Counsel is right in his submission that the calculation made by MCD in the present case is in consonance with the formula adopted by the Division Bench, which is as per the compensation payable in MACT cases. Therefore, in light of the aforesaid judgment and the stand of MCD, this writ petition is disposed of directing MCD to pay a sum of Rs. 4,68,800/- to the Petitioners as expeditiously as possible but not later than eight weeks from today. It is further directed that the amount of Rs.4,68,800/- will carry simple interest @ 6% per annum from the date of the death of deceased i.e. 21.02.2007 till the amount is released by MCD.



2025:DHC:1676



10. In order to safeguard the interest of Petitioners No. 2 and 3, it is further directed that out of the amount payable by MCD, a sum of Rs. 1.5 lac will be paid to Petitioner No. 1 and Rs. 1 lac each shall be paid to Petitioners No. 2 and 3 in the timeframe granted by the Court. The remaining amount along with interest at the rate of 6% per annum, as aforementioned, shall be invested in interest bearing Fixed Deposit Receipts (FDRs) in equal shares in the names of Petitioners No. 2 and 3. Initial period of FDR in the name of Petitioner No. 2 shall be 3 years and in case of Petitioner No. 3 shall be 5 years. It will be open to the said Petitioners to encash the FDRs on maturity at the end of said period. The interest on the FDRs shall be paid quarterly by automatic credit of interest in the saving accounts of Petitioners No. 2 and 3. No loan, advance or withdrawal shall be allowed on the FDRs, without the permission of the Court.

11. Before drawing the curtains, I may express my profound appreciation for the valuable assistance rendered by Mr. H.S. Phoolka, learned Senior Counsel and Ms. Aakanksha Kaul, Advocate in bringing about an amicable settlement between the parties and putting a quietus to a 17 years old litigation.

**JYOTI SINGH, J**

**MARCH 10, 2025/shivam**