

ANNEXURE - 4.

AKHILESH TRIPATHI  
Advocate  
Counsel for the Applicants  
Chamber No. 10  
High Court, Allahabad  
Mob. 9925924832

F.A.F.O No. 434-2010

Shiv Dhani Mishra

vs  
Smt. Neelam Singh & Others.

Distt. Varanasi

advised. 2013, 2012



1. 2013, 2012

Court No. 29

Case No. 2110 of 2010

Case - FIRST APPEAL FROM ORDER No. 434 of 2010

Petitioner - Shri Dhanu Mishra

Respondent - Smt. Neelam Singh And Others

Petitioner Counsel - G.K. Gupta

Respondent Counsel - A.K. Saxena, Brijendra Chandra Naik, Shailesh Kumar Tripathi

Hon'ble Sibghat Ullah Khan, J.

Appellant filed Motor Accident Compensation Case No.212 of 2007

claiming Rs.12,28,000/- as compensation for the injuries suffered by him in

an accident on 20.08.2007. Sri Ram Achal Yadav, M.A.C.T./A.D.J./ Special

Judge (Essential Commodities Act), Varanasi decided the case on

24.11.2009 and awarded compensation of Rs.66788/-. The insurance

Company was directed to deposit the said amount and thereafter it was

permitted to recover the same from motor vehicle owner, Smt. Neelam

Singh. Insurance Company has not filed any appeal. Claimant has filed this

appeal claiming enhancement of compensation. Learned counsel for motor

vehicle owner respondent No.1 states that he has filed cross-objection in

this appeal on behalf of his client against the direction given in the

impugned award regarding recovery of the awarded amount from the

vehicle owner by the Insurance Company after depositing the same in

court.

The claimant appellant filed application for withdrawal of the awarded

amount which had been deposited by the Insurance Company. Sri Ram

Achal Yadav, the learned M.A.C.T./A.D.J. through order dated 28.07.2010

rejected the application on the ground that appellant had filed appeal (this

F.A.F.O. in the High Court for enhancement of compensation.

Learned counsel for motor vehicle owner states that Insurance Company has not filed any appeal and motor vehicle owner has also not filed any appeal questioning the quantum of awarded damages. In any case in the impugned order dated 28.07.2010 there is no mention that any appeal or cross-objection has been filed either by the Insurance Company or motor vehicle owner questioning quantum of damages.

The Court completely fails to understand as to how such an order can be passed by an A.D.J. Even if this F.A.F.O. seeking enhancement of the awarded damages is dismissed still appellant would be entitled to the amount which has already been awarded by the M.A.C.T./ A.D.J. and which has been deposited by the Insurance Company.

Accordingly, this release application is allowed. Order dated 28.07.2010 is quashed.

It is directed that within three days from the date of filing of application by the appellant along with certified copy of this order, the amount deposited by the Insurance Company shall be paid to the appellant. It is further directed that Sri Ram Achal Yadav, M.A.C.T./ A.D.J. shall not be given the jurisdiction of motor accident claims tribunal in future and a copy of this order shall be placed in his service book.

Office is directed to send a copy of this order to the Registrar concerned.  
Order Date :- 20.3.2012

N.L.Y

AUTHENTICATED COPY  
*Ravi*  
25-5-2016  
D.R  
SECTION OFFICER  
COMPUTERISED COPYING SECTION  
HIGH COURT, LAHORE