

16 CS DJ 12/22 MRS. SHABNAM KHATOON Vs. M/S KRISHNA
PLASTIC AND
ORS

10.07.2025

Present: Sh. Ahmad Ansari, Proxy counsel for the plaintiff.
Sh. Hari Kishan , Counsel for the defendant.

Seeks time to file appropriate court fee. Proxy counsel for the plaintiff states that main counsel will appear at 12:00 PM.

Be awaited.

(VIKRAM BALI)
DISTRICT JUDGE-2/NORTH/ ROHINI
COURT/DELHI/10.07.2025

At 12:07 PM

Present: Sh. Ansar Ahmad, counsel for the plaintiff.
Sh. Hari Kishan , Counsel for the defendant.

1. Counsel for the plaintiff points out that court fees as directed on 28.02.2025 has not been filed as he wants to press his applicatoin under order 33 CPC dt 24.12.2021. It is argued that on 24.08.2021 at 11:30 AM Sh. Sikandar Khan who was working with defendant no. 1 died due to short circuit at the time of his employment.

2. Plaintiffs are widow and minor sons of Late Sh. Sikandar Khan. It is argued that even report dt. 19.10.2024 by Anchal Adhikari (Circle Officer), Nalanda to the effect that Shabnam Khatoon w/o Late Sh. Sikandar Khan only has a house and no other property.

3. Per contra counsel for the defendant argues that in Para 8 of

the plaint it is avered that documents were submitted to ESIC after death of Sh. Sikandar Khan and during course of the arguments it is submitted by counsel for the plaintiff that Rs. 1000/- p.m are being payed by ESIC. However, counsel for the plaintiff clarified that this money is required for day to day expenses of six plaintiffs and court fees cannot be paid and no other earning family member is present.

4. It is further argued by the counsel for the defendant that even arrears will be available thus the application under order 33 CPC be dismissed.

5. Heard file perused.

6. Perusal of the records shows that as per averments in the plaint on 24.08.2021 at 11:30 AM Sh. Sikandar Khan who was working with defendant no. 1 died due to short circuit at the time of his employment.

7. Perusal of the records shows that plaintiffs are widow and five minor sons of Late Sh. Sikandar Khan.

8. Perusal of the records shows that in report dt. 19.10.2024 by Anchal Adhikari (Circle Officer), Nalanda it is mentioned that Shabnam Khatoon w/o Late Sh. Sikandar Khan only has a house and no other property.

9. The submission on behalf of defendant that in Para 8 of the plaint it is avered that documents were submitted to ESIC after death of Sh. Sikandar Khan and during course of the arguments it is submitted by counsel for the plaintiff that Rs. 1000/- p.m are being payed by ESIC, So application be dismissed is without merits. This submission is rejected. In natural course of human conduct money is required for day to day expenses of six plaintiffs and court fees cannot be paid and no

other earning family member is present. Perusal of order 33 Rule 1 CPC shows that property exempt from attachment and subject matter of the suit cannot be considered for quantifying sufficient means under order 33 CPC.

10. The further submission on behalf of defendant that even arrears will be available thus the application under order 33 be dismissed is without merits as there is no such material on record and this court is satisfied that no further enquiry is required. The matter may not be detained further, as order 33 Rule 10 provides for recovery of court fees if plaintiff succeeds. Order 33 Rule 11 CPC provides for recovery of court fees if indigent fails. No prejudice will be cost to the defendants. The application under order 33 CPC is allowed keeping in view the fact that there is no earning member. Late Sh. Sikandar Khan has admittedly died and five sons of Late Sh. Sikandar Khan I.e plaintiffs no 2 to 6 are minor.

11. Plaintiffs are allowed to sue as indigent persons.

At the joint request of the counsel, to come up for filing of affidavit of admission denial of documents and issues on **31.10.2025**.

(VIKRAM BALI)
DISTRICT JUDGE-2/NORTH/ ROHINI
COURT/DELHI/10.07.2025