ITEM NO.101 COURT NO.5 SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 7114-7115 OF 2003

M.C.D. Appellant (s)

VERSUS

ASSCN.,VICTIMS OF UPHAAR TRAGEDY & ORS. Respondent(s)

(With appln(s) for directions and office report)

WITH Civil Appeal NO. 6748 of 2004
(With office report)
Civil Appeal NO. 7116 of 2003
(With office report)

Date: 24/11/2009 These Appeals were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE R.V. RAVEENDRAN
HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN

For Appellant(s)
Mr. Viresh B. Saharya, Adv.
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Mr. Rajan Narain,Adv.

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For Respondent(s)
Ms. Indira Jai Singh, ASG
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Mr. P.P. Malhotra, ASG
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Mr. Chetan chawla, Adv.
Mr. Gaurav sharma, Adv.

Mr. Jayant Mehta, Adv.
Mr. Ravinder Singh, adv.
Mr. Mohan Pradhan, Adv.

Mr. Prem Malhotra,Adv.
Mrs Anil Katiyar ,Adv
Mr. Mukul Gupta ,Adv
M/S Saharya & Co. ,Adv
Ms. Sushma Suri ,Adv
Mr. Prem Malhotra ,Adv
Mr. D.S. Mahra ,Adv
Mr. Chanchal Kumar Ganguli ,Adv
Ms. Hetu Arora ,Adv

Mr. Jayant Kumar Mehta ,Adv

UPON hearing counsel the Court made the following

O R D E R

The learned counsel for the Municipal corporation seeks accommodation till tomorrow for further arguments in the main appeal.

We find from the interim order dated 11.10.2004 that this court had directed the cinema theatre owners to deposit into court 50% of the 55% compensation payable by them as per the judgment of the High court namely, Rs.3,0,1,40,000/-(Rupees three crores one lakh forty thousand), and further directed that out of the said amount to be deposited, 50% should be distributed to the claimants rateably and remaining 50% shall be invested with the nationalized bank so as to available for further disbursement. We find that when the said order for deposit was made, the court had proposed to dispose of the matter immediately on the SLP paper books. But thereafter the matter has been pending for five years.

There is no justification for denying the victims payment of least that part of the compensation which has been deposited by the theatre owners in the court and invested in bank. Though there is a challenge to the quantum of the compensation that has been awarded, it cannot seriously be disputed that the amount deposited being less than 25% of what would be due as per the decision of High Court(compensation plus interest), the same can be disbursed.

Therefore, without prejudice to the contentions of the parties we are of the view that the entire amount deposited by the theatre owner should be disbursed. We, therefore, modify the order dated 11.10.2004 with a direction to disburse the remaining 50% of Rs.3,01,40,000/- which is kept in deposit with the accrued interest on the deposit, on pro rata basis among the claimants

that is families of 59 persons who died in the accident and 103, were injured in the accident. We are informed that even the 50% initially ordered on 11.10.2004 to be distributed has not been distributed among all the victims yet as the process of verification is yet to be completed. The reason for the delay is stated to be the non-availability of the records which have been sent to this court. The counsel for the Association of Uphaar Tragedy Victims may furnish copies of the relevant papers to the Registrar of the High Court in charge of disbursement .The theatre owners and the police may also assist the Registrar in the verification and disbursement process. The High Court Registry should endeavour to complete the process of disbursement as per the order dated 11.10.2004 and also make the further pro

rata distribution of the remaining 50% and interest thereon, as per this order, within a period of two months.

In the meanwhile the cinema theatre owners shall further deposit the interest on Rs.3,01,40,000/-(Rupees Three crores one lakh forty thousand) from 14.7.1997 to the the date of deposit @ 9% per annum before the High Court within two months. Permission is granted to offer the cinema theatre building as security for raising the said amount.

The record of the S.D.M.if it has been received in this court may be made available to the High Court Registry to complete the process of disbursement.

List for further hearing tomorrow.

(O.P. Sharma)
Court Master

(M.S. Negi)
Court Master