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

+ MAC.APP. 250/2010

NEW INDIA ASSURANCE CO LTD Appellant
Through : Mr. Kundan Kumar Lal, Advocate

versus

BALPREET KAUR Respondent
Through: Mr. D.D. Singh, Advocate

AND

+ MAC.APP. 252/2010

BALPREET KAUR & ORS Appellant
Through : Mr. D.D. Singh, Advocate

versus

NEW INDIA INSURANCE COMPANY LTD & ORS Respondent
Through : Mr. Kundan Kumar Lal, Advocate

CORAM:
JUSTICE SHIV NARAYAN DHINGRA

ORDER
21.04.2010

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These two appeals have been preferred against the same Award, one by the Insurance Company and the other was by the claimant.

The learned Tribunal, by the impugned Award had calculated a monthly loss of income to the Lrs of the deceased and thereafter calculated loss of dependency till decision of the Award i.e. for 22 months to the claimant and on that basis and directed that the insurance company shall pay that amount and shall continue to pay monthly loss of income to the different legal heirs of deceased, to the wife till she remarries or till death and to the other legal heirs i.e. minor children, till they attain majority.

There is no provision under Motor Vehicles Act for fixing compensation on monthly payment basis or like pension as fixed by the learned Tribunal. The compensation has to be awarded to the parties as a lumpsum amount. This Court vide order dated 14th November 2008 in MAC

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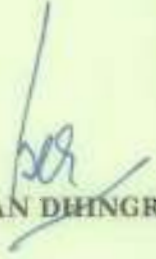
Appeal No.651 of 2007 had passed a similar order of fixing pension and the matter was taken to the Supreme Court in SLP. The order of fixing of pension was set aside by the Supreme Court and a lumpsum payment was directed to be given to the claimants.

Keeping in view the fact that grant of compensation as monthly payment has not found favour with the Supreme Court, I consider that the Tribunal should fix lumpsum compensation in accordance with law.

In the result, both the appeals are allowed and the matter is remanded back to the Tribunal for adjudicating lumpsum compensation payable to the claimant as per law. Parties are directed to appear before the Tribunal on 4th May, 2010. The learned Tribunal shall endeavour to adjudicate and fix lumpsum compensation within 30 days of appearance of the parties before it.

The amount of Rs.25,000/- deposited by the Insurance Company as a pre-condition for filing an appeal be adjusted as and when the lumpsum compensation is fixed by the Tribunal.

With above order, both the appeals stand disposed of.


SHIV NARAYAN DHINGRAJ

APRIL 21, 2010
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