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

Date of decision: 11th October, 2012

+ **MAC.APP. 1077/2012**

MOTI KALA & ANR.

Through

..... Appellants

Mr.Manish Maini, Advocate

versus

YOGENDER & ORS.

Through

..... Respondents

Mr.Pankaj Seth, Advocate, Advocate for
the Respondent No.3 Insurance
Company.

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. The Appeal is for enhancement of compensation of ₹3,00,900/- which was awarded by the Motor Accident Claims Tribunal (the Claims Tribunal) in MACT Suit No.62/2010 passed in a Claim Petition preferred under Section 163-A of the Motor Vehicles Act, 1988(the Act).
2. The only ground of challenge is that in a Petition under Section 163-A of the Act, the multiplier has to be applied as per the age of the deceased and not as per the age of the Claimant.
3. The case is covered by a judgment of this Court in *New India Assurance Co. Ltd. v. Pitamber & Ors., (MAC.APP.304/2009)* decided on

23.01.2012. This Court referred to the decision in *Oriental Insurance Company Limited v. Smt. Pataso & Ors.*, MAC APP.962/2005 decided on 01.09.2008; *Oriental Insurance Company Limited v. Om Prakash & Ors.*, 1 (2009) ACC 148; *Jagdish & Anr. v. Madhav Raj Mishra and Anr.* MAC APP.190/2011 decided on 19.04.2011; and *Oriental Insurance Company Limited v. Anita Devi & Ors.*, 20011 (5) AD (Delhi) 138, decided on 10.05.2011; *Oriental Insurance Company v. Hansrajibhai v. Kodala*, (2001) 5 SCC 175; and *Deepal Girishbhai Soni v. United India Insurance Company Limited*, (2004) 5 SCC 385; and held that in a Petition under Section 163-A of the Act there is a cap of ₹40,000/- on the annual income and the compensation including non-pecuniary damages have to be awarded as per the Second Schedule.

4. In view of the above, the loss of dependency comes to ₹4,53,333/- (₹40,000/- x $\frac{2}{3}$ x 17).
5. The compensation awarded towards loss to estate and future expenses is not in consistence with the Second Schedule. The Appellants are entitled to a sum of ₹2,000/- towards personal and living expenses and ₹2,500/- towards loss to estate.
6. The overall compensation thus comes to ₹4,57,833/-.
7. The enhanced compensation of ₹1,56,933/- shall carry interest @ 9% per annum from the date of the filing of the Petition till its payment. The enhanced compensation shall be released/held in a nationalized bank in terms of orders of the Claims Tribunal.

8. The Respondent No.3 National Insurance Company Ltd. is directed to deposit the enhanced amount of ₹1,56,933/- along with interest with the Claims Tribunal within six weeks.
9. The Appeal is allowed in above terms.
10. Pending Applications stand disposed of.

(G.P. MITTAL)
JUDGE

OCTOBER 11, 2012
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