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

% *Judgment delivered on: 19th July, 2013*

+ **MAC.APP. No. 637/2012**

SHAKUNTALA & ANR. Appellants
Through: Mr. Nitin Yadav, Advocate.

Versus

THE NEW INDIA ASSURANCE CO. LTD. & ORS..... Respondents
Through: Mr. Salil Paul, Advocate for
Respondent No.1.

CORAM:
HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. By way of the present appeal, the appellants have challenged the impugned award dated 01.10.2011, whereby the learned Tribunal has granted the compensation in favour of the respondent No.1/claimant as under:-

“	<i>Loss of dependency (7644x12x18)</i>	: <i>Rs.16,51,104/-</i>
	<i>For Medicines and Treatment</i>	: <i>Rs.2,39,100/-</i>
	<i>Loss of Love and Affection</i>	: <i>Rs.75,000/-</i>
	<i>For funeral expenses</i>	: <i>Rs.10,000/-</i>
	<i>Loss of Estate</i>	: <i><u>Rs.10,000/-</u></i>

<i>Total</i>	: <i><u>Rs. 19,85,204/-</u></i>
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(Rupees Nineteen Lacs Eighty five thousand and two hundred four only)

2. Learned counsel appearing on behalf of the appellants has submitted that indisputably the deceased was working on permanent job as a Constable in Delhi Police and at that time he was getting salary of Rs.11,466/-per month. However, the learned Tribunal has failed to give any amount on account of future prospects.

3. To support his arguments, he has relied upon the cases of ***Sarla Verma & Ors. Vs. DTC & Anr., (2009) 6 SCC 121***, ***Reshma Kumari & Ors. Vs. Madan Mohan & Anr.*** delivered in ***Civil Appeal No. 4646 of 2009*** on 02.04.2013 and ***Rajesh & Ors. Vs. Rajbir Singh, 2013 (6) SCALE 563***.

4. On the other hand, learned counsel appearing on behalf of the respondent No.1/Insurance Company has submitted that he does not dispute the legal position, however, keeping in view the age of the deceased, i.e., 23 years and the fact that he was in a permanent job with Delhi Police, maximum 30% future prospects may be granted by this Court. Moreover, the dependents were only wife and parents of the deceased.

5. I have heard the learned counsel for the parties.

6. Keeping in view the dictums of ***Sarla Verma***, ***Reshma Kumari*** and ***Rajesh***, (*supra*), the appellants are entitled for future prospects. Therefore, I grant 50% towards future prospects.

7. Thus, compensation on account of loss of dependency would be as under:-

<i>Income of the deceased</i>	<i>Rs.11,466/-p.m.</i>
<i>Future prospects (50%)</i>	<i>Rs. 5,733/-</i>
<i>Personal expenses of deceased (1/3rd)</i>	<i>Rs. 5,733/-</i>
<i>Annual Loss of Income</i>	<i>Rs.1,37,592/-</i>
<i>Loss of dependency (Rs.1,37,592 x 18)</i>	<i>Rs. 24,76,656/-</i>

8. Resultantly, the enhanced amount of compensation would come to Rs.8,25,552/- (Rs.24,76,656- Rs. 16,51,104). The enhanced amount will carry interest @ 7.5% as awarded by the learned Tribunal from the date of the filing of the petition, i.e. 13.01.2009 till realization.

9. Consequently, the respondent No.1/Insurance Company is directed to deposit the aforementioned enhanced amount of compensation with upto date interest within six weeks from today, with the State Bank of India, Dwarka Courts Branch, New Delhi in their respective accounts maintained by them in aforementioned Bank. Needless to state that enhanced amount shall be apportioned equally among the claimants in terms of order dated 01.10.2011.

10. At this stage, learned counsel appearing on behalf of the respondent No.1/Insurance Company has raised an objection that respondent No.4, wife of the deceased has not come before this Court, therefore, this Court cannot grant any share in her favour.

11. Admittedly, respondent No.4 has not challenged the impugned award and the appellants are the parents of the deceased. However, when this Court has enhanced the compensation amount, as above, the respondent No.4/wife of the deceased, being the beneficiary is also entitled for the same. Accordingly, the proportionate enhanced amount shall be paid to her in terms of the award dated 01.10.2011 passed by the learned Tribunal.

12. The enhanced amount shall be released in equal proportion amongst appellant Nos. 1 and 2 and respondent No. 4, parents and widow of the deceased respectively.

14. The instant appeal is allowed on the above terms.
15. There is no order as to costs.

SURESH KAIT, J.

JULY 19, 2013
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