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

Date of decision: 08th January, 2015

+ **MAC. APP. No.631/2013**

ICICI LOMBARD GENERAL INSURANCE CO. LTD.

..... Appellant

Through: Ms. Suman Bagga, Advocate & Mr.
Pankaj Gupta, Advocate

Versus

JYOTI MALHOTRA & ORS.

..... Respondents

Through: Mr. Puneet Khurana, Advocate for
Respondents no.1 & 2.

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. This appeal is directed against the judgment dated 04.01.2013 passed by the Motor Accident Claims Tribunal (the Claims Tribunal) whereby compensation of Rs.17,17,146/- along with interest @ 7.5% per annum was awarded in favour of Respondents no.1 and 2 for the death of Karan Malhotra, their unmarried son.

2. The only ground raised by the Appellant at the time of arguments is that the monthly salary of the deceased was wrongly taken as Rs.13,271/- instead of Rs.11,271/-. It is urged that reimbursement of Rs.2,000/- was wrongly added in the monthly salary of the deceased of September, 2009 and thus, the deceased's salary without this addition even for the month of September, 2009 was only Rs.11,271/-.
3. I have perused the pay slips placed on record of the Claims Tribunal as well as on the paper book which clearly depict that the deceased's salary in the month of June, July and August, 2009 was Rs.11,271/- only. However, in the month of September, 2009, it was Rs.13,271/- as there was an addition of Rs.2,000/- towards reimbursement.
4. The learned counsel for Respondents no.1 and 2 opposes the appeal and submits that there was an enhancement of Rs.2,000/- in the salary in September, 2009. I am not inclined to agree with the learned counsel for Respondents no.1 and 2 in view of the documents in the shape of salary slips which clearly demonstrate that the amount of Rs.2,000/- was towards reimbursement only. Thus, the loss of dependency is computed as Rs.14,20,146/- ($\text{Rs.11,271/-} + 50\% \times \frac{1}{2} \times 12 \times 14$).
5. At the same time, it is urged by the learned counsel for Respondents that a sum of only Rs.25,00/- was awarded towards loss of love and affection. With the inflation, now the trend is to award a sum of Rs.1,00,000/-

towards loss of love and affection. If any authority is needed, reference may be made to *Rajesh & Ors. v. Rajbir Singh & Ors.*, (2013) 9 SCC 54. Consequently, the compensation towards loss of love and affection is raised from Rs.25,000/- to Rs.1,00,000/-. Similarly, the compensation towards funeral expenses is raised from Rs.10,000/- to Rs.25,000/-.

6. The overall compensation is re-computed as under:

S.No.	Head of Compensation	Granted by the Claims Tribunal	Granted by this Court
1.	Loss of Dependency	Rs.16,72,146/-	Rs.14,20,146
2.	Loss of Love and Affection	Rs.25,000/-	Rs.1,00,000/-
3.	Funeral Expenses	Rs.10,000/-	Rs.25,000/-
4.	Loss to Estate	Rs.10,000/-	Rs.10,000/-
	Total	Rs.17,17,146/-	Rs.15,55,146/-

7. The overall compensation is thus, reduced from Rs.17,17,146/- to Rs.15,55,146/-.
8. By order dated 19.07.2013, entire amount of ₹17,17,146 was ordered to be deposited by the Appellant in the Court and 80% of the same was ordered to be released in favour of Respondents no.1 and 2.
9. Thus the excess sum of Rs.1,62,000/- along with proportionate interest as granted by the Claims Tribunal and the interest accrued, if any, during

the pendency of the Appeal will be refunded to the Appellant ICICI Lombard General Insurance Co. Ltd. by the Court.

10. The remaining amount of compensation along with interest shall be distributed in equal proportion to the Claimants/held in Fixed Deposit as directed by the Claims Tribunal.
11. The finding of the Claims Tribunal with regard to return of sum of Rs.1,00,000/- to the owner as given in para 30 of the impugned judgment is also affirmed.
12. The statutory amount of Rs.25,000/- shall also be refunded to the Appellant Insurance Company.
13. The Appeal is allowed in above terms.
14. Pending applications, if any, also stands disposed of.

(G.P. MITTAL)
JUDGE

JANUARY 08, 2015
pst