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

Date of decision: 15th April, 2015

\+ **MAC.APP. 826/2013**

SMT NAGINA & ORS. ..... Appellants

Through: Mr. Shekhar Aggarwal, Adv.

versus

SH PULTA RAM & ORS. ..... Respondents

Through: Mr. J.P.N. Shahi, Adv. for R-3.

CORAM:
HON'BLE MR. JUSTICE G.P.MITTAL

G. P. MITTAL, J. (ORAL)

1. The appeal is for enhancement of compensation of ₹5,41,936/- awarded by the Motor Accident Claims Tribunal (the Claims Tribunal) in favour of the Appellants for the death of Pramod Kumar, who suffered fatal injuries in a motor vehicular accident which occurred on 10.02.2008.

2. At the time of hearing the appeal, only two contentions are raised by the learned counsel for the Appellants:-

   (i) It is stated that though the Claims Tribunal accepted the age of deceased Pramod Kumar to be 25 years still it adopted a multiplier of 17 to compute the loss of dependency. The Claims Tribunal ought to have adopted the multiplier of 18; and

   (ii) The compensation awarded towards non-pecuniary damages is on the lower side.

3. While granting compensation of ₹5,41,936/-, the Claims Tribunal granted recovery rights to Respondent no.3 on the ground that Respondent no.1 has violated the terms and conditions of the insurance policy. The said finding has not been challenged by Respondent no.1. Respondent no.1 has not even preferred to contest this appeal in spite of service.

4. The appeal must succeed on both the grounds.

5. As per the School Leaving Certificate Ex.PW-1/2, the date of birth of the deceased was 30.04.1983. Thus, he was a little less than 25 years old on the date of the accident. The Claims Tribunal therefore, should have taken the multiplier of 18 instead of 17 to compute the loss of dependency.

6. The loss of dependency thus, comes to ₹5,47,200/- (3800/- x 12 x 2/3 x 18).

7. In view of the three Judge Bench decision of the Supreme Court in *Rajesh & Ors. v.Rajbir Singh & Ors., (2013) 9 SCC 54,* the Appellants would be entitled to a sum of ₹1,00,000/- each towards loss of love and affection and loss of consortium, ₹25,000/- towards funeral expenses and ₹10,000/- towards loss to estate.

8. The overall compensation hence, comes to ₹7,82,200/-.

9. Thus, the compensation is enhanced by ₹2,40,264/- which shall carry interest @ 7.5% per annum from the date of filing of the Claim Petition till its payment.

10. The enhanced compensation along with interest shall be deposited by Respondent no.3 Insurance Company within a period of six weeks, failing which the Appellants will be entitled to interest @ 12% per annum from the date of this judgment.

11. The enhanced compensation along with interest shall be released/held in fixed deposit in favour of the Appellants in terms of the order passed by the Claims Tribunal.

12. Since, as stated earlier, the finding on liability has not been challenged, it is made clear that Respondent no.3 shall be entitled to recover the amount of compensation paid in execution of this very judgment without having recourse to independent civil proceedings from Respondent no.1.

13. The appeal is allowed in above terms.

14. Pending applications, if any, also stand disposed of.

(G.P. MITTAL)
JUDGE

APRIL 15, 2015/vk