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

Decided on: 07th May, 2015

\+ **MAC.APP. 397/2015**

CHANDERWATI & ORS.

..... Appellants

Through: Mr. Anshuman Bal, Advocate

versus

NATIONAL INSURANCE CO. LTD. & ORS.

..... Respondents

Through: Mr. Pankaj Seth, Advocate for Respondent no.1.

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

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. The Appellants have filed this appeal aggrieved with the quantum of compensation of Rs.29,62,425/- awarded by the Motor Accident Claims Tribunal (Claims Tribunal) for the death of Bahori Lal Sharma aged 57 years who was working as a Head Line Man in BSES Yamuna Power Ltd. and who suffered fatal injuries in a motor vehicular accident which occurred on 20.04.2013.

2. During inquiry before the Claims Tribunal, it was proved that the deceased was getting a gross salary of Rs.43,710/- per month, which included a sum of Rs.2,752/- towards Transport Allowance(TA), Rs.220/- towards Cycle Conveyance and Rs.500/- towards Tea Allowance. The Claims Tribunal deducted this sum of about Rs.3,472/- *in toto* being for the personal benefit of the deceased employee and took the deceased's salary as Rs.40,238/- per month thus, holding deceased's annual income for computation of loss of dependency to be Rs.4,82,856/-. After deduction of Rs.28,285/- towards Income Tax and 1/3 towards personal and living expenses and applying the multiplier of 9 as per the age of the deceased, the loss of dependency was computed to be Rs.27,27,423/-. The Claims Tribunal further awarded a sum of Rs.1,00,000/- each towards the loss of love and affection and loss of consortium, Rs.25,000/- towards funeral expenses and Rs.10,000/- towards loss to estate to grant a total compensation of Rs.29,62,423/-(rounded off to Rs.29,62,425/-) payable to the Appellants.

3. It is urged by the learned counsel for the Appellants that TA, Cycle Conveyance and Tea Allowance were for the benefit of employee's family as well and not for the benefit of only the employee. It is contended that since in the salary, a sum of about Rs.5,000/- was being received towards House Rent Allowance(HRA), the same will be non-taxable and the liability of Rs.28,285/- towards Income Tax shall get reduced. No evidence was led by the Appellants to show that the amount received towards HRA plus 10% of the pay was being spent towards payment of the house rent. In view of this, it cannot be said that HRA was non-taxable. The allowances stated earlier were not for the benefit of the employee's family but were for the benefit of the employee only. It may further be noted that Section 166 of the Motor Vehicles Act, 1988 envisages compensation which is just and reasonable. It is true that at the age of 57 years, the appropriate multiplier will be 9, but it may be noted that the deceased was to retire just after three years of his unfortunate death in the accident. It is well settled that the compensation awarded should neither be pittance nor a

windfall. In my view, the compensation awarded is just and reasonable.

4. The appeal being frivolous does not call for any notice to the Respondents.

5. The appeal is dismissed *in limine*.

6. Pending applications also stand disposed of.

(G.P. MITTAL)
JUDGE

MAY 07, 2015
pst