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

*Date of decision: 19 January, 2015*

\+ **MAC.APP.1088/2011**

ORIENTAL INSURANCE COMPANY LTD. ...... Appellant
Through: Mr. A.K. Soni, Adv.

versus

MEERA DEVI & ORS. ..... Respondents
Through: Mr. Sanjiv Gupta, Adv. with
Mr. Vittan Khan, Adv. for R-1 & R-2.

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

***G. P. MITTAL, J.*** *(ORAL)*

1. The Appellant Oriental Insurance Company Limited impugns the judgment dated 07.09.2011 passed by the Motor Accident Claims Tribunal (the Claims Tribunal) whereby a compensation of Rs.32,39,124/- was awarded in favour of Respondents no.1 and 2.

2. At the time of hearing of the appeal, the only ground of challenge raised by the learned counsel for the Appellant is that addition of 100% towards future prospects was made. As per *Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr., (2009) 6 SCC 121* this ought to have been confined to 50%. It is further stated that the liability of income tax was not deducted from the income of the deceased while computing compensation.

3. Learned counsel for Respondents no.1 and 2 on the other hand, has submitted that the Respondents produced evidence to prove that ultimately the deceased could have been promoted as Deputy General Manager and his salary could have been raised in the pay scale of Rs.37,000/- to Rs.67,000/-. It is therefore, submitted that the Claims Tribunal was justified in granting 100% increase towards future prospects.

4. In *Sarla Verma (Smt.) & Ors. (supra),* it was laid down that to bring uniformity in grant of compensation, addition of 50% has to be granted where the deceased is a permanent employee having future prospects. In the instant case, the deceased was working as a Junior Engineer in Delhi Transco. Thus, addition of 50% only could have been made.

5. I tend to agree with the learned counsel for the Appellant that the deceased's gross salary after deduction of transport allowance was Rs.2,71,992/- . Any income beyond Rs.1,60,000/- in the Assessment Year 2010-2011 was subject to income tax. There was liability of income tax of about Rs.11,000/- on this amount.

6. The loss of dependency thus, comes to Rs. 25,44,672/- {2,71,992/- - Rs.11,000/- (income tax) + 50% x 1/2 x 13 (as per the age of the mother of the deceased)}.

7. The Claims Tribunal awarded a sum of Rs.40,000/- towards loss of love and affection and Rs.20,000/- towards funeral expenses. The same needs to be raised to Rs.1,00,000/- and Rs.25,000/- respectively in view of the judgment in *Rajesh & Ors. v. Rajbir Singh & Ors., (2013) 9 SCC 54*.

8. The Claimants are further entitled to a notional sum of Rs.10,000/- towards loss to estate.

9. The revised compensation is tabulated as under:-

| **Sl. No.** | **Compensation under various heads** | **Awarded by the Claims Tribunal** | **Awarded by this Court** |
|---|---|---|---|
| 1. | Loss of Dependency | 31,79,124/- | 25,44,672/- |
| 2. | Loss of Love and Affection | 40,000/- | 1,00,000/- |
| 3. | Funeral Expenses | 20,000/- | 25,000/- |
| 4. | Loss of Estate | -- | 10,000/- |
| | **Total** | **Rs.32,39,124/-** | **Rs.26,79,672/-** |

10. The overall compensation is hence, reduced from Rs.32,39,124/- to Rs. 26,79,672/-.

11. The excess compensation of Rs.5,59,452/- along with proportionate interest shall be refunded to the Appellant Insurance Company.

12. The compensation awarded by this Court shall be released/held in

fixed deposit in favour of Respondents no.1 and 2 in the proportion as directed by the Claims Tribunal.

13. The statutory amount of ₹25,000/- along with interest, if any, shall also be refunded to the Appellant Insurance Company.

14. The appeal is allowed in above terms.

15. Pending applications also stand disposed of.

**(G.P. MITTAL)**
**JUDGE**

**JANUARY 19, 2015**
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