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

Date of decision: 13th January, 2015

+ **MAC. APP. No.863/2014**

NEW INDIA ASSURANCE CO. LTD.

..... Appellant

Through: Mr. Pankaj Seth, Advocate

Versus

AMRIT SINGH & ORS.

.....Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. The Appellant New India Assurance Co. Ltd. impugns the judgment dated 05.08.2014 whereby compensation of Rs.18,24,936/- was awarded by the Motor Accident Claims Tribunal(the Claims Tribunal) in favour of Respondents no.1 to 5 for the death of Chander Wati who died in a motor vehicular accident which took place on the intervening night of 20/21.02.2014 at about 12:40 a.m.
2. On appreciation of the evidence, the Claims Tribunal found that the accident was caused on account of rash and negligent driving of Tata 407 bearing no.HR-63-B-1315 driven by Respondent no.6 in a rash and negligent manner who hit the deceased's motor cycle from behind. During inquiry before the Claims Tribunal, it was claimed that the

deceased was running a bakery shop under the name and style of M/s Amrit Fruit Juice and Shake and was earning Rs.20,000/- per month. The Claims Tribunal noticed that the Respondents (claimants) failed to prove that the deceased Chander Wati was running a bakery or had income of Rs.20,000/- per month. Thus, the Respondents (claimants) were granted compensation as if the deceased was a housewife and the Claims Tribunal applied the principles as laid down in *Royal Sundaram Alliance Insurance Co. Ltd. v. Manmeet Singh & Ors.*, 2012 ACJ 721 to compute the loss of gratuitous services rendered by the housewife to be Rs.15,99,936/-. The Claims Tribunal further awarded a sum of Rs.1,00,000/- each towards loss of love and affection and loss of consortium relying on *Rajesh & Ors. v. Rajbir Singh & Ors.*, 2013(6) SCALE 563. The Claims Tribunal also awarded a sum of Rs.25,000/- towards funeral expenses.

3. It is urged by the learned counsel for the appellant that since the respondent failed to prove the business and earning, the compensation ought to have been awarded on minimum wages of an unskilled worker. I do not agree. Since the claimants failed to prove that the deceased was running a bakery and earning Rs.20,000/- per month or that she was running a bakery, the Claims Tribunal rightly assessed the compensation payable to the Respondents/claimants on the basis of loss of gratuitous services rendered by a homemaker. The case is clearly covered by a judgment of this Court in *Master Manmeet(supra)*.
4. It is urged by the learned counsel for the Appellant that increase of 15% towards future prospects ought not to have been awarded in view of the judgment in *Reshma Kumari & Ors. v. Madan Mohan & Anr.*, (2013) 9 SCC 65. It may be mentioned that in *Master Manmeet (supra)*, no

addition has been made towards future prospects. It is only the value of the gratuitous services rendered by the housewife which has been computed in para 34 of the judgment in *Master Manmeet*(supra) which has been extracted by the Claims Tribunal in para 16 of the impugned judgment.

5. I do not find any ground to interfere with the impugned judgment. The appeal is devoid of any merit; the same is accordingly dismissed *in limine*.
6. Pending applications, if any, also stand disposed of.
7. The statutory amount of Rs.25,000/- shall also be refunded to the Appellant Insurance Company.

(G.P. MITTAL)
JUDGE

JANUARY 13, 2015
pst