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

% **Date of Decision: 08th August, 2016**

+ **MAC.APP. 70/2013**

ORIENTAL INSURANCE CO. LTD. Appellant
Through: Mr. A.K. Soni, Advocate

Versus

MOHIT AHLAWAT & ORS. Respondents
Through: Mr. Ravindra Narayan, Mohd. Zafar,
Advocates along with Mr. P.S.
Ahlawat and Mrs. Prakash Ahlawat,
Legal Heirs of respondent No.1

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

C.M. Appl. Nos.28669-70/2016

1. Issue notice. Learned counsel for the legal representatives of respondent No.1 accepts notice.
2. Respondent No.1 has expired and is survived by his parents Mr. P.S. Ahlawat, aged 86 years and his wife Mrs. Prakash Ahlawat, aged about 80 years who are present in Court.
3. Both the applications are allowed and the legal representatives of deceased respondent No.1 are substituted in place of respondent No.1.
4. Amended memo of parties is taken on record.

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5. The appellant has challenged the award dated 21st November, 2012, whereby compensation of Rs.13,07,568/- has been awarded to respondent

No.1.

6. The accident dated 18th July, 2004 resulted in death of Dr. Priti Ahlawat. The deceased has survived by her husband, who filed the claim petition. The deceased was aged 35 years at the time of the accident and was working as a Senior Scientist (Lecturer) with Government of Haryana earning Rs.13,308/- per month. The Claims Tribunal added 50% towards future prospects. The income of the deceased after adding 50% towards future prospects was taken to be Rs.19,962/- (Rs.13,308/- + 50% towards future prospects). Since respondent No.1 was financially independent, the Claims Tribunal took the loss of estate as 1/3rd i.e. Rs.6,654/-. The Claims Tribunal applied the multiplier of 16 to compute the loss of estate as Rs.12,77,568/-. The Claims Tribunal awarded Rs.10,000/- towards loss of consortium, Rs.10,000/- towards love and affection and Rs.10,000/- towards funeral expenses. The total compensation awarded was Rs.13,07,568/-.

7. The appellant has challenged the award on the ground that the negligence has not been proved. The deceased was travelling as an occupant in car No.HR-26A-2801 which was hit by a truck No.HR-58A-0034 and FIR has been registered against the driver of the offending truck. The driver of the truck did not appear in the witness box. As such, there is no infirmity in the finding of negligence of the driver of the truck by the Claims Tribunal.

8. Learned counsel for the appellant further submits that the compensation towards loss of estate has not been properly calculated. There is no merit in this contention as well. The Claims Tribunal has computed the loss of estate according to the well settled principles laid down by this Court in **Keith Rowe v. Prashant Sagar**, (2011) ACJ 1734.

9. There is no merit in the appeal, which is hereby dismissed.

10. The appellant has deposited the entire award amount with UCO Bank, Delhi High Court Branch. In terms of the order dated 23rd January, 2013,

50% amount has already been released to respondents out of which Rs.3,94,774.50 is lying in the savings bank account No.15530110056769 of respondent No.1. UCO Bank is directed to release the amount lying in the savings bank A/c as well as fixed deposits of respondent No.1 to the legal representatives of the respondent No.1, namely, Mr. P.S. Ahlawat and Mrs. Prakash Ahlawat (parents of deceased respondent No.1) in equal shares.

11. Mr. P.S. Ahlawat, aged about 86 years and his wife Mrs. Prakash Ahlawat aged about 80 years, are present in Court with their counsel. Considering their age UCO Bank, Delhi High Court Branch is also directed to release the balance 50% award amount to the legal representatives of deceased, respondent No.1. without any restriction of fixed deposit.

12. The registry shall refund the statutory amount to the appellant after verifying the computation of interest in respect of the amount deposited in terms of the order dated 23rd January, 2013. In the event of any short deposit, the same shall be deducted from the statutory deposit and be sent to the legal representatives of respondent No.1 through UCO Bank and the balance statutory amount shall be refunded back to the appellant.

13. C.M. Appl. 10654/2016 is disposed of.

14. Copy of this judgment be given *dasti* to counsels for the parties under signatures of the Court Master.

J.R. MIDHA, J.

AUGUST 08, 2016

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