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

Date of Decision: 29th January, 2016

+ MACA No.82/2016

PRIYANKA DEVI & ORS Appellants

Through: Mr. Shekhar Aggarwal & Mr.
Suresh Kumar, Advs.

versus

**KARAN SINGH & ORS (THE NEW INDIA ASSURANCE CO
LTD)** Respondents

Through: None.

**CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA**

JUDGMENT

R.K.GAUBA, J (ORAL):

1. The appeal is for enhancement of the compensation awarded. The grounds urged are two fold; first, that the tribunal ignored the contention, and the evidence, that the deceased was earning ₹15,000/- per month as an employee with a shopkeeper, and second, that the possibility of future prospects have not been factored in.

2. I have gone through the impugned judgment with assistance of the learned counsel but find no substance in the contentions urged. It is mentioned (in para 14) of the impugned judgment that the claimants through PW1 were unable to bring on record any substantive proof of income of the deceased being to the tune of ₹15,000/- per month from

the private employment. Thus, the tribunal was constrained to go by the notional income on the basis of minimum wages for unskilled workman at the relevant point of time. No fault can be found with said approach.

3. In the case reported as *Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr.*, (2009) 6 SCC 121, Supreme Court, *inter-alia*, ruled that the element of future prospects of increase in income will not be granted in cases where the deceased was “self employed” or was working on a “fixed salary”. Though this view was affirmed by a bench of three Hon’ble Judges in *Reshma Kumari & Ors. Vs. Madan Mohan & Anr.*, (2013) 9 SCC 65, on account of divergence of views, as arising from the ruling in *Rajesh & Ors. vs. Rajbir & Ors.*, (2013) 9 SCC 54, the issue was later referred to a larger bench, *inter-alia*, by order dated 02.07.2014 in *National Insurance Company Ltd. vs. Pushpa & Ors.*, (2015) 9 SCC166.

4. Against the above backdrop, by judgment dated 22.01.2016 passed in MAC Appeal No. 956/2012 (*Sunil Kumar v. Pyar Mohd.*), this Court has found it proper to follow the view taken earlier by a learned single judge in MAC Appeal No. 189/2014 (*HDFC Ergo General Insurance Co. Ltd. v. Smt. Lalta Devi & Ors.*) decided on 12.1.2015, presently taking the decision in *Reshma Kumari (Supra)* as the binding precedent, till such time the law on the subject of future prospects for those who are “self-employed” or engaged in gainful employment at a “fixed salary” is clarified by a larger bench of the Supreme Court. This applies to the matter at hand because the claimant here pleaded about gainful employment at a fixed salary and has not led any evidence showing the salary was subject to any periodic increase.

5. In view of above, the appeal is unmerited and is accordingly dismissed in *limine*.

**R.K. GAUBA
(JUDGE)**

JANUARY 29, 2016/ssc