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

Date of Decision: 06th May, 2016

\+ **MAC.APP. 159/2013**

FUTURE GENERALI INDIA INSURANCE CO. LTD. .... Appellant

Through: Mr. Pankaj Gupta, Adv. for Ms. Suman Bagga, Adv.

versus

BABU LAL AND ORS. ....Respondents

Through: None.

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. Sheela Devi, wife of the first respondent and mother of the second to fifth respondents, died as a result of injuries suffered in a motor vehicular accident that occurred on 11.09.2012, involving negligent driving of truck bearing registration no.HR-69A-6922 (the offending vehicle), admittedly insured against third party risk with the appellant/insurance company (the insurer) for the period in question. The first to fifth respondents (claimants) filed accident claim case (suit no.362/2012) on 06.11.2012, in the wake of detailed accident report (DAR) submitted by the local police on the basis of evidence gathered during investigation of first information report (FIR) no.

247/2012 of police station Begum Pur which had been registered respecting the accident.

2. In the proceedings before the tribunal, the insurer was impleaded as a party in addition to driver and owner of the offending vehicle. The tribunal held inquiry and, by judgment dated 02.01.2013, returned finding that the death had occurred due to negligent driving of the offending vehicle. The same has attained finality as there was no challenge thereto. The tribunal awarded compensation in the sum of ₹15,42,000/- with interest at the rate of nine percent per annum, calling upon the insurer to pay. The said amount includes ₹14,97,000/- towards loss of dependency. The loss of dependency has been calculated on the assumed dependency loss of ₹8910/- per month on the multiplier of 14 taking the age of the deceased between 42-45 years.

3. This, as pointed out by the appellant is incorrect as the ration card (Ex.P-2) proved by the claimants themselves shows the date of birth of deceased was 04.01.1964. In this view, she was more than 48 years old at the time of death.

4. Thus, per the dictum in *Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr.,* (2009) 6 SCC 121, the multiplier of 13 would apply. Therefore, the compensation has to be reduced by (8910x12) ₹1,06,920/-.

5. Accordingly, the compensation is reduced to (1542000-106920) ₹14,35,080/-, rounded off to ₹14,36,000/-. Needless to add, the award shall carry interest as levied by the tribunal.

6. The award is modified accordingly.

7. By order dated 18.02.2013, the insurance company had been directed to deposit the entire awarded amount with up-to-date interest with UCO Bank, Delhi High Court, New Delhi, out of which 70% was allowed to be released, the balance kept in FDR for the period specified. It is noted that the tribunal had apportioned the compensation by specifying the shares of different claimants. Since the award has been reduced, it is directed that the share of second to firth respondents shall be restricted to the amounts already received by them under the interim order, the balance now payable under the modified award to go in entirety to the first respondent (husband).

8. The Registrar General shall take necessary steps for releasing the balance to the claimant. The excess and statutory deposit, if made, shall be refunded.

9. The appeal is disposed of in above terms.

R.K. GAUBA
(JUDGE)

MAY 06, 2016
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