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

% **Date of Decision: 24th October, 2016**

\+ **MAC.APP. 110/2016 & CMs 3737/2016, 34589/2016**

UNITED INDIA INSURANCE CO. LTD. ..... Appellant
Through: Mr.Sameer Nandwani, Advocate

versus

LALITA JHA & ORS ..... Respondents
Through: Mr.Ghanshyam Thakur, Advocate

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

JUDGMENT (ORAL)

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.27,12,000/- has been awarded to respondents no.1 to 6.

2. The accident dated 17th September, 2014 resulted in the death of Ajay Kumar Jha. The deceased was aged 44 years at the time of the accident and was in private job as Manager. It was claimed that the deceased was earning Rs.25,000/- per month. The deceased was holding a professional degree of MBA from L.N. Mishra College of Business Management, Mirzapur, Bihar. However, in the absence of any documentary proof of income, the Claims Tribunal assumed his income on the basis of his educational qualifications as Rs.15,000/- per month. The Claims Tribunal added 30% towards future prospects, deducted 1/4th towards his personal expenses and applied the multiplier of 14 to compute the loss of dependency as Rs.24,57,000/-. The Claims Tribunal awarded Rs.1,00,000/- towards loss of love and

affection, Rs.1,00,000/- towards loss of consortium, Rs.1,0,000/- towards loss of estate and Rs.10,000/- towards funeral expenses. The total compensation awarded is Rs.27,12,000/-.

3. Learned counsel for the appellant urged at the time of the hearing that the income assumed by the Claims Tribunal is on a higher side. It is further submitted that 30% addition towards future prospects is unwarranted in the absence of clear proof of income. It is further submitted that the compensation awarded for loss of love and affection and consortium are on a higher side.

4. Learned counsel for the respondent submits that the compensation awarded by the Claims Tribunal is just, fair and reasonable. Learned counsel, however, submits that there is a calculation error and the compensation amount be enhanced to Rs.29,01,000/-.

5. On careful consideration of the averments made by learned counsel for both the parties, this Court is of the view that there is no infirmity in the Claims Tribunal assuming the income of the deceased as Rs.15,000/- per month on the basis of his professional qualification of MBA and addition of 30% towards future prospects. This Court is satisfied that the compensation of Rs.27,12,000/- is just, fair and reasonable and it does not warrant reduction. The prayer of the respondents for enhancement of compensation to Rs.29,01,000/- is also rejected.

6. The appeal is dismissed. The appellant has deposited the entire award amount with the Claims Tribunal out of which 50% of the award amount has been released to respondents no.1 to 6 and the

balance amount of Rs.14,69,447/- is lying in fixed deposit with UCO Bank, Patiala House Courts.

7. UCO Bank, Patiala House Court is directed to keep Rs.13 lakh in fixed deposit in the following manner:

<table>
<tr><th>Sr. No.</th><th>Duration of FDR</th><th><u>Resp. 1</u>
Widow

(in Rs.)</th><th><u>Resp. 2</u>
Daughter

(in Rs.)</th><th><u>Resp. 3</u>
Minor Son

(in Rs.)</th><th><u>Resp. 4</u>
Minor Son

(in Rs.)</th><th><u>Resp.5</u>
Father

(in Rs.)</th><th><u>Resp.6</u>
Mother

(in Rs.)</th></tr>
<tr><td>1.</td><td>6 mths</td><td>-</td><td>-</td><td rowspan="12">1,75,000/- till he attains the age of majority.

On maturity, Bank shall release Rs.25,000/- and 3 FDRs of for Rs.50,000 shall be kept each for a period of 1 year, 2 and 3 years.</td><td rowspan="12">1,75,000/- till he attains the age of majority.

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<tr><td>2.</td><td>1 yr</td><td>60,000</td><td>40,000</td><td>25,000</td><td>25,000</td></tr>
<tr><td>3.</td><td>1 ½ yr</td><td>-</td><td>-</td><td>25,000</td><td></td></tr>
<tr><td>4.</td><td>2 yrs</td><td>60,000</td><td>40,000</td><td></td><td>25,000</td></tr>
<tr><td>5.</td><td>3 yrs</td><td>60,000</td><td>40,000</td><td></td><td>25,000</td></tr>
<tr><td>6.</td><td>4 yrs</td><td>60,000</td><td>40,000</td><td></td><td></td></tr>
<tr><td>7.</td><td>5 yrs</td><td>60,000</td><td>40,000</td><td></td><td></td></tr>
<tr><td>8.</td><td>6 yrs</td><td>60,000</td><td></td><td></td><td></td></tr>
<tr><td>9.</td><td>7 yrs</td><td>60,000</td><td></td><td></td><td></td></tr>
<tr><td>10.</td><td>8 yrs</td><td>60,000</td><td></td><td></td><td></td></tr>
<tr><td>11.</td><td>9 yrs</td><td>60,000</td><td></td><td></td><td></td></tr>
<tr><td>12.</td><td>10 yrs</td><td>60,000</td><td></td><td></td><td></td></tr>
<tr><td colspan="2">TOTAL</td><td>6,00,000</td><td>2,00,000</td><td>1,75,000</td><td>1,75,000</td><td>75,000</td><td>75,000</td></tr>
<tr><td colspan="7">GRAND TOTAL</td><td>13,00,000</td></tr>
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8. The balance amount, after keeping Rs.13 lakh in FDRs, be released to respondent no.1 by transferring the same in her savings bank account.

9. The monthly interest on the FDRs of respondents No. 1,2,5 & 6 5 shall be credited in their savings bank accounts. However, the monthly interest on the FDRs of the two minor children, namely, respondents No.3 and 4 shall be credited in the savings bank account of respondent No.1

10. At the time of maturity, the fixed deposit amount shall be automatically credited in the individual savings bank accounts of the

beneficiaries.

11. All the original FDRs shall be retained by UCO Bank, Patiala House Court Branch. However, the photocopies of the same shall be provided to the claimants/respondents.

12. No cheque book or debit card be issued to the claimants/respondents without permission of this Court.

13. No loan or advance or pre-mature discharge shall be permitted without the permission of this Court.

14. UCO Bank, Patiala House Court Branch shall ensure that the savings bank accounts of respondents are individual accounts and not joint accounts.

15. Statutory amount be refunded back to the appellant.

16. CM No.3737/2016 is disposed of.

CM 34589/2016

17. List on 8th November, 2016.

18. Respondent no.1 shall produce the copy of the FDRs issued in terms of this judgment.

19. Copy of this judgment be given *dasti* to learned counsels for the parties under signature of Court Master.

OCTOBER 24, 2016 **J.R. MIDHA, J.**

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