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

% **<u>Date of Decision: 15th September, 2016</u>**

\+ MAC.APP. 382/2014

ORIENTAL INSURANCE COMPANY LTD ..... Appellant
Through: Mr. Tarkeshwar Nath, Mr. Onkar Nath and Mr. Saurabh Kumar Tuteja, Advs.

versus

JAYAWATI & ORS ..... Respondents
Through: Mr. Navneet Goyal, Adv. for R1 to R5.

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

<u>JUDGMENT (ORAL)</u>

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.7,64,121/- has been awarded to respondents No.1 and 2.

2. The accident dated 08th March, 2010 resulted in the death of Rahul Kumar. The deceased was aged 23 years at the time of accident and was survived by his parents who filed the claim petition. The deceased was working as a driver earning Rs.8,000/- per month. The employer of the deceased appeared in the witness box as PW-2 to prove the occupation and income of the deceased. However, the Claims Tribunal took the minimum wages of Rs.6,448/- per month and added 30% towards future prospects, deducted 50% towards personal expenses of deceased and applied multiplier of 14 to compute the loss of dependency as Rs.7,04,121/-. The Claims Tribunal awarded Rs.25,000/- towards love and affection, Rs.10,000/- towards loss of estate and Rs.25,000/- towards funeral expenses. The total compensation awarded by Claims Tribunal is Rs.7,64,121/-.

3. Learned counsel for the appellant urged at the time of hearing of the appeal that respondent No.7 insured the offending vehicle for the period of 12th February, 2010 to 11th February, 2011. However, appellant was not liable as the cheque towards the premium of the policy was dishonoured on 16th February, 2010 whereupon appellant cancelled the policy vide endorsement dated 20th February, 2010 and intimated respondent No.7 as well as RTO.

4. This Court has perused the documents placed on record by the appellant before the Claims Tribunal. The letter dated 19th February, 2010 to respondent No.7 was sent by ordinary post and there is no proof of service of the said letter on respondent No.7. The intimation of cancellation of the policy to the RTO has also been sent by ordinary post. There is no justification on the part of the appellant in not sending the aforesaid two letters to respondent No.7 and RTO by registered AD Post. This Court therefore, does not hold the alleged intimation of the cancellation of the policy to respondent No.7 as well as the RTO to be valid. In that view of the matter, the appellant remains liable to pay the compensation to the third party and to recover the same from respondent No.7. The Claims Tribunal has already granted recovery rights to respondent No.7.

5. Learned counsel for the appellant next urged that the future prospects of 30% should not have been taken into consideration by the Claims Tribunal. This Court does not agree with learned counsel for the appellant. Since the occupation of the deceased was proved by the claimants, there is no infirmity in the Claims Tribunal taking the future prospects into consideration to compute the compensation.

6. There is no merit in the appeal which is hereby dismissed. The appellant has deposited the entire award amount with the Registrar General of this Court in terms of the order dated 28th April, 2014 out of which 80%

amount has been released to respondents No.1 and 2 and the balance 20% award amount is lying in fixed deposit.

7. The Registrar General is directed to instruct UCO Bank, Delhi High Court Branch to discharge the FDR in respect of the balance 20% award amount and release 30% (of 20%) to respondent No.1 (mother) and 20% (of 20%) to respondent No.2 (father). The balance 50% amount (of 20%) be kept in fixed deposits in the following manner: -

Sr. No.	**Duration of FDR**	**<u>Resp. 1</u> (Mother)**	**<u>Resp. 2</u> (Father)**
1.	1 year	**15%**	**10%**
2.	2 years	**15%**	**10%**
TOTAL		**30%**	**20%**
GRAND TOTAL			**50%**

8. The statutory amount be refunded back to the appellant after verifying that the amount deposited by the appellant covered the interest up to the date of deposit. In the event of any short deposit, the same shall be deducted from the statutory amount and be paid to respondents No.1 and 2 through the UCO Bank, Delhi High Court Branch.

9. The monthly interest on the FDRs shall be paid to respondents No.1 and 2 by transferring the same to their individual savings bank accounts.

10. At the time of maturity, the fixed deposit amount shall be automatically credited in the individual savings bank accounts of respondents No.1 and 2.

11. All the original FDRs shall be retained by UCO Bank, Delhi High Court Branch. However, the photocopies of the same shall be provided to the claimants/beneficiaries.

12. No cheque book or debit card be issued to the claimants/respondents No.1 and 2 without permission of this Court.

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

14. The claimants/respondents No.1 and 2 shall approach the UCO Bank for completing the formalities for the disbursement of the award amount in terms of this judgment.

15. UCO Bank, Delhi High Court Branch shall ensure that the savings bank accounts of respondents No.1 and 2 are individual accounts and not joint accounts.

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

J.R. MIDHA, J.

SEPTEMBER 15, 2016
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