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

Date of Decision: 25.04.2016

+ **MAC.APP. 369/2013**

SUSHILA DEVI & ANR.

..... Appellants

Through: Mr. O.P. Mannie, Advocate

versus

PARVESH KUMAR & ANR

..... Respondents

Through: Mr. J.P.N. Shahi and Mr. S. Kumar,
Advocates

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT

R.K.GAUBA, J (ORAL):

1. The short issue raised in the appeal concerns the multiplier adopted for calculating the loss of dependency in a claim petition presented under Section 163-A of the Motor Vehicles Act, 1988 (M.V. Act).

2. The claim case (suit no.740/2010) had been instituted by the appellants (claimants) on 14.11.2011, on account of the death of their daughter, Kumari Pooja, an unmarried girl, aged 21 years at the relevant point of time, in a motor vehicular accident that had occurred on 10.10.2011, involving a motor cycle bearing registration No.DL5S AF 1832 (the offending vehicle), admittedly insured against third party risk with the second respondent (insurer), for the period in question. The tribunal

calculated the loss of dependency at ₹4,05,000/- on the basis of finding that the deceased was earning ₹40,000/- p.a. from which 1/3 was deducted to calculate the annual loss of dependency at ₹27,000/-. Further, multiplier of 15 was adopted on the ground that the age of the mother (i.e. one of the claimants) was 42 years at the relevant point of time.

3. Clearly, the tribunal fell into error by choosing the multiplier on the basis of age of the claimant. Since the claim case had been brought under Section 163-A of the M.V. Act, as per the second schedule it is the age of the victim which would control the choice of multiplier.

4. Having regard to the age of the deceased (i.e. 21 years), 17 would have been the proper multiplier to calculate the loss of dependency. In this view, the loss of dependency has to be increased by ₹54,000/- (₹27,000 x 2).

5. It is directed that the entire enhanced portion of the compensation shall fall to the share of the first appellant (i.e. the claimant / mother) alone. Ordered accordingly. The insurance company is directed to pay the enhanced portion of the compensation with proportionate interest by making an appropriate deposit with the tribunal within thirty days of the judgment.

6. The appeal is disposed of, in the aforesaid terms.

R.K. GAUBA
(JUDGE)

APRIL 25, 2016
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