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

Date of Decision: 02nd May, 2016

\+ **MAC.APP. 467/2007**

RADHA YADAV AND ORS. ..... Appellants
Through: None

versus

PRADEEP RAWAT AND ORS. ..... Respondents
Through: None

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. Prashant Yadav, then serving as sub-Inspector in Delhi Police, suffered injuries in motor vehicular accident that occurred on 26.03.2005 involving negligent driving of Maruti van No.HR 26 N 9310 (offending vehicle) and consequently died. His dependent family members (appellants) instituted an accident claim case (MACT.No.468/05) on 28.10.2005 before the motor accident claims tribunal (tribunal) seeking compensation, impleading the National Insurance Company (insurer) as one of the respondents (it being third respondent before the tribunal), in addition to the driver/owner of the offending vehicle. The tribunal held inquiry and, by judgment dated 25.04.2007, upheld the case of the claimants about the death having occurred due to negligent driving of the offending vehicle. Compensation in the sum of ₹ 23,07,500/- was awarded with interest at

7.5% per annum in favour of the claimants and the insurer was directed to pay. The said amount includes ₹50,000/- assessed to be medical expenses incurred prior to the death, ₹5,000/- each towards loss of consortium, loss of estate, transportation charges and funeral expenses besides ₹22,42,500/- towards loss of dependency. To calculate the loss of dependency, the tribunal took the income of the deceased at ₹14,375/-, it being the net salary as against salary slip (Ex.PW1/A) showing the gross emoluments to be in the sum of ₹15,915/-. The tribunal added future prospects of increase, applied the multiplier of 13 and deducted 1/3rd towards personal & living expenses.

2. By the appeal at hand, the claimants submitted that the assessment made by the tribunal is erroneous as the salary has not been properly computed, element of future prospects has not been properly factored in and the multiplier applied is unduly low. They also contended that the awards under non-pecuniary heads of damages are inadequate.

3. At the hearing, neither side has appeared, even though the matter was adjourned on the previous date for similar reasons. There is no good grounds to adjourn this old appeal yet again.

4. Upon perusal of the record, this Court finds that the grievance about the inadequacy of compensation is correct. Therefore, it needs to be reassessed.

5. The salary certificate clearly shows that total emoluments were ₹15,915/-. The deductions of which no benefit was given were contributions towards general provident fund and health insurance. There is no reason

why the said amounts should be kept out of purview in calculating the notional income. Given the fact that the deceased was in the regular government employment, the element of future prospects has to be added. Having regard to the age at which the death occurred, this ought to be to the extent of 50%. Having regard to the fact that the deceased was 33 years, the multiplier of 16 would apply.

6. Thus, the total compensation on account of loss of dependency is recomputed as (15,915 x 150 ÷ 100 x 2 ÷ 3 x 12 x 16) ₹30,55,680/- rounded off to ₹30,56,000/-.

7. Following the view taken in *Rajesh & Ors. v. Rajbir Singh & Ors.*, (2013) 9 SCC 54 and *Shashikala V. Gangalakshmamma* (2015) 9 SCC 150, compensation in the sum of ₹1 lakh each on account of loss of love & affection and loss of consortium and ₹25,000/- each towards loss of estate and funeral expense are added. Adding the component of ₹50,000/- towards medical expenses, the total compensation payable in the case comes to (₹30,56,000 + 2,50,000 + 50,000) ₹33,56,000/-.

8. Following the consistent view taken by this Court [see judgment dated 22.02.2016 in MAC.APP. 165/2011 *Oriental Insurance Co Ltd v. Sangeeta Devi & Ors.*], the rate of interest is increased to 9% per annum from the date of filing of the petition till realization.

9. The award is modified as above.

10. Having regard to the facts and circumstances of the case, it is directed that the entire enhanced portion of the award with the proportionate interest shall be payable only to the first appellant (first claimant) widow.

11. The insurance company is directed to satisfy the enhanced award by requisite deposit with the tribunal within 30 days whereupon it shall be released to the claimants.

12. The appeal is disposed of in above terms.

R.K. GAUBA
(JUDGE)

MAY 02, 2016
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