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

% **Date of Decision: 04th October , 2016**

\+ **MAC. APP. 458/2008 and C.M. Appl. 11653/2008**

UNITED INDIA INSURANCE CO. LTD. ..... Petitioner
Through: Mr. L.K. Tyagi, Advocate

Versus

SHIV SHARAN TIWARI & ORS. ..... Respondent
Through: Mr. J.S. Kanwar, Advocate for respondents No.1 to 6

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.6,74,936/- has been awarded to respondents No.1 to 6.

2. The accident dated 30th December, 2006 resulted in the death of Anil Tiwari. The deceased was aged 37 years at the time of the accident and was survived by his widow, three minor children and parents, who filed claim petition before the Claims Tribunal. The Claims Tribunal took the minimum wages of Rs.3333/- per month, added 50% towards future prospects, deducted 1/3 towards the personal expenses and applied the multiplier of 16 to compute the loss of dependency of Rs.6,39,936/-.

3. Learned counsel for the appellant urged at the time of hearing of the appeal that the future prospects should not be taken into consideration for computing the compensation under Section 163A of the Motor Vehicles Act. It is further submitted that the compensation towards loss of love and affection and funeral expenses are on a higher

side.

4. Learned counsel for respondents No.1 to 6 submits that the deceased has left behind six legal representatives and, therefore, the deduction towards the personal expenses should have been 1/5th instead of 1/3rd. It is further submitted that no compensation has been awarded towards loss of consortium and loss of estate. It is further submitted that the lower rate of interest of 7.5% has been awarded whereas this Court has been awarding interest @ 9% per annum.

5. Respondents No.1 and 3 are present in Court and they submit that there is no earning member in the family and respondents No.1 to 6 are finding it very difficult to sustain themselves.

6. This Court is of the view that the compensation awarded by the Claims Tribunal does not warrant any interference considering that the Claims Tribunal has taken the personal expenses of the deceased as 1/3rd whereas appropriate deduction towards personal expenses should have been 1/5th; no compensation has been awarded for loss of consortium and loss of estate and interest @ 7.5% per annum has been awarded instead of 9% per annum,.

7. The appeal is dismissed and the award of the Claims Tribunal is upheld in the peculiar facts and circumstances of the case. However, the question of law urged by learned counsel for the appellant is left open to be considered in an appropriate case.

8. The appellant has deposited the entire award amount with the Registrar General of this Court, out of which Rs.50,000/- has been released to respondent No.1 and Rs.50,000/- to respondent No.3, and the balance amount of Rs.6,59,450/- was sent to State Bank of India,

Tis Hazari Courts Branch.

9. The State Bank of India, Tis Hazari Courts Branch is directed to disburse the amount lying in FDR to respondents No.1 to 6 by issuing fresh FDRs of Rs.6,00,000/- in the following manner: -

Sr. No.	Duration of FDR	Resp.1 – Father (Rs.)	Resp.2 – Mother (Rs.)	Resp.3 – Wife (Rs.)	Resp.4 – Daughter (Rs.)	Resp.5 – Minor Daughter (Rs.)	Resp.6 – Minor Son (Rs.)
1.	1 year	50,000/-	-	-	50,000/-	*FDR for Rs.1,50,000/- till she attains the age of maturity. Upon attaining the age of maturity, the bank shall release Rs.50,000/- to her individual savings bank account and Rs.1,00,000/- shall be kept in two FDRs for Rs.50,000/-, each for a period of two years.*	*FDR for Rs.1,00,000/- till he attains the age of maturity. Upon attaining the age of maturity, the bank shall release Rs.50,000/- to his individual savings bank account and Rs.50,000/- shall be kept in FDR for a period of two years.*
2.	2 years	-	50,000/-	-	50,000/-		
3.	3 years	-	-	50,000/-	50,000/-		
4.	4 years	-	-	50,000/-	-		
GRAND TOTAL		**50,000/-**	**50,000/-**	**1,00,000/-**	**1,50,000/-**	**1,50,000/-**	**1,00,000/-**
TOTAL		**Rs.6,00,000/-**					

10. The balance amount after issuing the FDRs for Rs.6 lakh be released to respondent No.2, Smt. Sudha Tiwari, and respondent No.3, Shavita Tiwari, in equal shares.

11. The claimants have bank accounts in State Bank of India, Chhibramau, G.T. Road, District Kannauj, U.P. The State Bank of India, Tis Hazari Courts shall issue FDRs for Rs.6 lakh and transfer the same to State Bank of India, Chhibramau, G.T. Road, District Kannauj, U.P.

12. The monthly interest on the FDRs of respondents No.1 to 4 shall be credited in their individual savings bank accounts. The interest on the FDRs of respondents No.5 and 6 shall be credited in the

individual savings bank account of respondent No.3. The interest on the FDRs of respondents No.5 and 6 shall be credited in the individual savings bank account of respondent No.3.

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

14. All the original FDRs shall be retained by State Bank of India, Chhibramau. However, the photocopies of the same shall be provided to the claimants/respondents.

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

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

17. The claimants/respondents shall approach the State Bank of India for completing the formalities for the disbursement of the award amount in terms of this order.

18. State Bank of India, Chhibramau shall ensure that the savings bank accounts of respondents are individual accounts and not joint accounts.

19. The statutory amount be refunded back to the appellant.

20. Pending application is disposed of.

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

J.R. MIDHA, J.

OCTOBER 04, 2016/rsk