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

% **<u>Date of Decision: 08th August, 2016</u>**

\+ MAC.APP. 510/2016 & CM. Appl. No.24384/2016

UTTRAKHAND TRANSPORT CORPORATION ..... Appellant
Through: Mr. Dalip Dhyani and Mr. Suraj Singh, Advocates

versus

DEEPA & ANR ..... Respondents
Through: Respondent No.1 in person

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.2,65,171/- has been awarded to respondent No.1.

2. On 25th October, 2010, respondent No.1 was travelling in bus No.UA-07-M-7197 with her father and two children from Almora to Delhi. The aforesaid bus met with an accident with Tata 407 truck on National Highway 24 in NOIDA which resulted in fracture of left knee and thigh. Respondent No.1 remained hospitalised from 25th October, 2010 to 13th November, 2010 and again from 11th February, 2013 to 27th February, 2013. Respondent No.1 underwent surgery in which the limb was elevated with the help of an iron plate.

3. The Claims Tribunal awarded Rs.50,000/- towards pain, suffering and loss of amenities of life, Rs.10,000/- towards special diet and conveyance, Rs.50,000/- towards disfigurement, Rs.5671/- towards medical expenditure,

Rs.10,500/- towards attendant charges, Rs.14,000/- towards maid for four months and Rs.1,25,000/- towards disability. The total compensation awarded is Rs.2,65,171/-.

4. Learned counsel for the appellant submits that the accident occurred due to the negligence of Tata 407. The Claims Tribunal rejected this plea on the ground that the appellant did not examine its driver before the Claims Tribunal and, therefore, the adverse inference was drawn against the appellant.

5. The trial Court record has been perused. The driver of the appellant's bus did not appear in the witness box and, therefore, there is no infirmity in the findings of the Claims Tribunal.

6. The second ground urged by learned counsel for the appellant that the rate of interest of 12% is on a higher side. The respondent No.1 is present in Court and her condition has been seen. This Court is of the view that the Claims Tribunal has awarded lesser compensation considering the nature of injuries suffered by the appellant. In that view of the matter, the rate of interest does not warrant any reduction.

7. Learned counsel for the appellant submits that the appellant has deposited excess amount of Rs.3,524/- while depositing compensation which should be refunded back to the appellant.

8. There is no merit in the appeal, which is hereby dismissed. Considering that the compensation awarded to respondent No.1 is on a lower side and this Court has the power to enhance the compensation even in the absence of cross-objections, the amount awarded by the Claims Tribunal is enhanced by Rs.3,524/-.

9. The appellant has deposited Rs.4,19,580/- with UCO Bank, Delhi High Court Branch by means of a cheque drawn in the name of UCO Bank

A/c Deepa. The appellant has dedcuted the statutory amount of Rs.25,000/- while calculating the compensation. The Registrar General of this Court is directed to transfer the statutory amount deposited by the appellant to UCO Bank, Delhi High Court Branch by means of a cheque drawn in the name of UCO Bank A/c Deepa.

10. UCO Bank, Delhi High Court Branch has already received Rs.4,19,580/- from the appellant and upon receipt of Rs.25,000/- from the Registrar General, the total amount with the UCO Bank would be Rs.4,44,580/-.

11. UCO Bank is directed to keep a sum of Rs.4,00,000/- in fixed deposit in the following manner: -

Sr. No.	**Duration of FDR**	**Respondent No.1** **FDR amount** **(Rs.)**
1.	1 yr	**80,000/-**
2.	2 yrs	**80,000/-**
3.	3 yrs	**80,000/-**
4.	4 yrs	**80,000/-**
5.	5 yrs	**80,000/-**
TOTAL		**4,00,000/-**

12. The balance, amount after keeping Rs.4,00,000/- in fixed deposit, be released to respondent No.1 by transferring the same to her savings bank account No.16520100034121, Bank of Baroda, Shakarpur, Delhi.

13. Monthly interest on the FDRs of respondent No.1 shall be credited in her individual savings bank account.

14. At the time of maturity, the fixed deposit amount shall be automatically credited in the savings bank account of the beneficiary.

15. 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 respondent No. 1.

16. No cheque book be issued to the claimant/ respondent No. 1 without permission of the Court.

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

18. The claimant/respondent No.1 shall approach the UCO Bank for completing the formalities for the disbursement of the award amount in terms of this order.

19. UCO Bank, Delhi High Court Branch shall ensure that the savings account of respondent No. 1 is individual account and not joint account.

20. The claimant/respondent No.1 is at liberty to approach this Court for release of further amount in case of any financial exigency.

21. CM Appl. No.24384/2016 stands disposed of.

22. Copy of this order be given dasti to parties under signatures of the Court Master. Copy of this order be sent to respondents as well as UCO Bank, Delhi High Court Branch.

J.R. MIDHA, J.

AUGUST 08, 2016
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