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

Date of Decision: 18th April, 2016

\+ **MAC.APP. 831/2013**

SAEED AHMAD SAIFI & ORS. ..... Appellants

Through: Mr. Sunil Kumar Verma, Adv.

versus

PAPPU KUMAR & ORS ..... Respondents

Through: Mr. Pankaj Gupta, Adv. for R-3/Insurance company.

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. The appellants (claimants) are parents of Fareed Ahmed Saifi, a bachelor who died in a motor vehicular accident that occurred on 01.02.2011 statedly on account of rash driving of motor vehicle described as Canter bearing registration No. HR 55J 2907 (the offending vehicle), admittedly insured against third party risk with the third respondent (insurer) for the period in question. The tribunal, by judgment dated 22.04.2013, allowed the claim petition under Sections 166 and 140 of Motor Vehicles Act, 1988 (MV Act), registered as MACT No. 89/12/2011 brought by the claimants and awarded compensation in the sum of Rs.4,08,636/- which includes Rs. 3,36,636/- towards loss of dependency, Rs. 25,000/- towards loss of love & affection, Rs. 10,000/- each towards cremation charges and loss of estate. It added element of interest @7.5% from the date of filing of the petition (26.04.2011) till realization and directed the insurance company to pay.

2. By the appeal at hand, the claimants pray for enhancement of the compensation only on two grounds; namely the non-pecuniary damages and rate of interest.

3. The awards under non-pecuniary heads of damages are found to be inadequate. 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 Rs. 1 lakh on account of loss of love & affection and Rs. 25,000/- each towards loss of estate and funeral expenses deserve to be added. Thus, the compensation is liable to be increased by Rs. 1,05,000/.

4. 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.

5. The award is modified as above.

6. The insurer is directed to pay the enhanced portion of the compensation, including on account of increase in the rate of interest by depositing the requisite amount with the tribunal within 30 days of today whereupon it shall be released to the claimant, second appellant (mother), in the form of fixed deposit receipt in her name for a period of seven years with right to monthly interest.

7. The appeal is disposed of in above terms.

R.K. GAUBA
(JUDGE)

APRIL 18, 2016/nk