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

% **Date of Decision: 07th October, 2016**

\+ MAC.APP. 887/2013

IFFCO TOKIO GENERAL INSURANCE CO LTD ...... Appellant
Through: Mr. Pankaj Seth, Advocate

versus

CHANDA KUMARI & ORS. ..... Respondents
Through: Mr. Ghanshyam, Advocate for respondent No.1
Mr. Rakesh Chauhan, Advocate for respondents No.2 & 3

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.5,17,920/- has been awarded to respondent No.1.

2. The accident dated 09th November, 2009 resulted in the death of Madhuri Devi. The deceased was aged 37 years and was survived by a married daughter who was staying with her. The Claims Tribunal awarded compensation of Rs.5,17,920/- to respondent No.1.

3. Learned counsel for the appellant has urged at the time of hearing of the appeal that respondent No.1 was not dependent

upon the deceased and is, therefore, not entitled to the loss of dependency. It is further submitted that the future prospects of 30% should not be taken into consideration.

4. Respondent No.1 was the only legal heir of the deceased, Madhuri Devi and was staying with her even after her marriage and she deposed that she was completely dependent upon the deceased. In that view of the matter, there is no infirmity in the Claims Tribunal awarding loss of dependency to respondent No.1. There is no infirmity in the future prospects awarded by the Claims Tribunal.

5. Learned counsel for the appellant further urged that the driving licence of respondent No.2 was fake and, therefore, the appellant is entitled to recovery rights against respondents No.2 and 3. It is submitted that the driver of the offending vehicle was charge-sheeted for holding a fake driving licence which is sufficient to hold that the driver was not holding a valid driving licence at the time of the accident.

6. There is merit in this contention of learned counsel for the appellant. Since the driver of the offending vehicle had been charge-sheeted for holding a fake driving licence, the appellant is entitled to the recovery rights against respondents No.2 and 3.

7. The appeal is partially allowed and the appellant is granted recovery rights to recover the award amount from respondents No.2 and 3.

8. The appellant has deposited the entire award amount with the

Registrar General of this Court in terms of the order 30th September, 2013, out of which 60% amount has been released to respondent No.1 and the balance amount is lying in fixed deposit.

9. Respondent No.1, present in Court, submits that she has savings bank A/c No.1509000109152247 with Punjab National Bank, Ashram, New Delhi.

10. The Registrar General is directed to instruct UCO Bank, Delhi High Court to release 25% to respondent No.1 and keep the balance 75% in 5 FDRs of equal amounts for the period 1 year, 2 years, 3 years, 4 years and 5 years.

11. The monthly interest on the FDRs of respondent No.1shall be credited by UCO Bank, Delhi High Court Branch in her individual savings bank account with Punjab National Bank, Ashram.

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

13. All the original FDRs shall be retained by UCO, Delhi High Court Branch. However, the photocopies of the same shall be provided to the claimant/respondent.

14. No cheque book or debit card be issued to the claimant/respondent without the permission of this Court.

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

16. The claimant/respondent shall approach the UCO Bank for completing the formalities for the disbursement of the award amount in terms of this order.

17. UCO Bank, Delhi High Court Branch shall ensure that the savings account of respondent is individual account and not joint account.

18. The claimant/respondent is at liberty to approach this Court for release of further amount in case of any financial exigency.

19. The registry shall verify whether the amount deposited by the appellant in terms of order dated 30th September, 2013 covers the interest upto the date of deposit and, if so, the statutory amount be refunded back to the appellant. In the event of any short deposit, the same may be deducted from the statutory amount and be paid to respondent No.1 through UCO Bank, Delhi High Court Branch and the balance amount be refunded back to the appellant.

20. C.M. Appl. 17395/2016 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 07, 2016
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