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

% **Date of Decision: 09th August, 2016**

\+ MAC.APP. 1153/2011

NEW INDIA ASSURANCE CO LTD ..... Appellant
Through: Mr. Sameer Nandwani and Mr. P. Acharya, Advs.

versus

PARKASH CHAND & ORS ..... Respondents
Through: Mr. S.N. Parashar, Adv.

\+ MAC.APP. 1049/2012

PARKASH CHAND & ORS ..... Appellants
Through: Mr. S.N. Parashar, Adv.

versus

NEW INDIA ASSURANCE CO LTD ..... Respondent
Through: Mr. Sameer Nandwani and Mr. P. Acharya, Advs.

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. Both the parties have challenged the award dated 08th September, 2011 whereby compensation of Rs.4,20,000/- has been awarded to the claimants.

2. On 17th September, 2010, Harish Kumar was crushed under bus bearing No. UP-14AT-4122 at Banthala Triangle. The deceased was aged about 15 years and 11 months at the time of the accident. He was survived by his parents who filed the claim petition before the Claims Tribunal. The deceased had passed the high school examination in the year 2010. The high school certificate of the deceased, mark sheet and

the certificate issued from Lal Bahadur Shastri Training Institute were proved by the father of the deceased who had appeared in the witness box as PW-1. PW-1 further deposed that his son was also doing the work of Computer Graphics and was earning Rs.8,500/- per month.

3. The Claims Tribunal took the notional income of deceased as Rs.15,000/- per month, applied multiplier of 18 and added Rs.75,000/- towards future prospects and Rs.75,000/- towards non-pecuniary damages. The total compensation awarded by the Claims Tribunal is Rs.4,20,000/-.

4. The appellant in MAC.APP.1153/2011 has challenged the award on the grounds that the negligence of the offending bus has not been proved and the compensation awarded by the Claims Tribunal is on a higher side. It is submitted that the appropriate multiplier to be applied in this matter is 14 and 50% should not have been added for future prospects.

5. The appellants in MAC.APP.1049/2012 are seeking enhancement on the ground that the income of the deceased be taken as Rs.10,000/- per month, 50% be added towards future prospects, 1/3rd be deducted towards personal expenses of the deceased, multiplier of 18 be applied, Rs.1,00,000/- be awarded towards loss of love and affection, Rs.1,00,000/- be awarded towards loss of estate and Rs.10,000/- be awarded towards funeral expenses.

6. On hearing both the parties, this Court is of the view that since the deceased was undergoing a professional diploma course for hardware and software after his matriculation, it can be safely presumed that the deceased would have earned Rs.9000/- after completing the diploma course. The deceased died on 17th September, 2010 when the minimum wages for matriculate were Rs.6448/-. The deceased was

unmarried and, therefore, 50% is deducted towards his personal expenses. The deceased was aged about 16 years at the time of accident and was survived by his parents. The age of the parents of the deceased the time of accident was 40 and 45 years and appropriate multiplier according to the average age of parents is 15. Taking the income of the deceased as Rs.9,000/- per month, deducting 50% towards his personal expenses, applying the multiplier of 15, adding Rs.80,000/- towards loss of love and affection, Rs.80,000/- towards loss of estate and Rs.30,000/- towards funeral expenses, total compensation is computed to be Rs. 10,00,000/-.

7. The police registered case for rash and negligent driving against the driver of offending bus. The certified copy of criminal case is Ex.PW1/4. No evidence was led by the owner/driver of the insurance company to rebut the same. The finding of the Claims Tribunal with respect to the rash and negligent driving is, therefore, upheld.

8. The Supreme Court has consistently awarded interest @ 9% per annum in catena of judgments including ***Municipal Corporation of Delhi v. Association of Victims of Uphaar Tragedy***, AIR 2012 SC 100. The rate of interest is, therefore enhanced from 7.5% to 9%.

9. MAC.APP.1153/2011 is dismissed whereas the MAC.APP.1049/2012 is allowed and the award amount is enhanced from Rs.4,20,000/- to Rs.10,00,000/- along with interest accrued thereon along with 9% per annum from the date of the filing of petition till realization.

10. The appellant has deposited the amount awarded by the Claims Tribunal with Registrar General of this Court in terms of the order dated 21st December, 2011 out of which Rs. 31,140.60 and Rs.2,80,266.07 amount has been released to the respondents No.1 and 2. The Registrar General is directed to transfer the balance 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 Saroj.

11. New India Assurance Company Limited is directed to deposit the enhanced amount to UCO Bank Delhi High Court Branch by means of a cheque drawn in the name of UCO Bank A/c Saroj within four weeks from today.

12. Order of disbursement shall be passed after examining the claimants who shall remain present in Court on the next date of hearing.

13. List for directions on 20th September, 2016.

14. The Accounts Officer of this Court shall examine whether the amount already deposited by the New India Assurance Company Limited covers the interest up to the date of the awarded amount and if there is any short deposit, the same shall be deducted from the statutory amount and shall be forwarded to UCO Bank, Delhi High Court Branch and the balance statutory amount be released to New India Assurance Company Limited after deposit of the enhanced award amount by the appellant.

15. Copy of this judgment be given *dasti* to learned counsels for the parties under signature of Court Master.

J.R. MIDHA, J.

AUGUST 09, 2016
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