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

% **Date of Decision:19th October, 2016**

\+ MAC.APP. 807/2014

UNITED INDIA INSURANCE CO. LTD ..... Appellant
Through: Mr. Pradeep Gaur and Mr. Amit Gaur, Advs.

versus

OMI @ OM DUTT & ORS ..... Respondents
Through: Mr. Peeush Sharma, Mr. S.M. Tomar and Mr. Kartikey Nayyar, Advs. for R1 to R6.

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.14,20,200/- has been awarded to claimants/respondents No.1 to 6.

2. The accident dated 07th February, 2010 resulted in the death of Sandeep. The deceased was aged 22 years at the time of the accident and was working as House Keeping Supervisor in PVR City Mall, Prashant Vihar earning Rs.6,594/- per month. The deceased was survived by his parents and four un-married sisters who filed the claim petition before the Claims Tribunal.

3. The Claims Tribunal took the income of the deceased as Rs.5,950/- per month, added 50% towards future prospects, deducted

1/3rd towards his personal expenses and applied the multiplier of 18 to compute the loss of dependency of Rs.12,85,200/-. The Claims Tribunal awarded Rs.1,00,000/- towards loss of love and affection, Rs.10,000/- towards loss of estate and Rs.25,000/- towards funeral expenses. The total compensation awarded is Rs.14,20,200/-.

4. Learned counsel for the appellant urged at the time of the hearing of this appeal that the 50% future prospects should not have been taken into consideration. It is further submitted that the personal expenses be reduced from 1/3rd to 1/2 and multiplier be reduced from 18 to 14. Learned counsel for the appellant also disputes the involvement of the offending vehicle in the accident.

5. Learned counsel for the claimants/respondents No.1 to 6 submits that compensation awarded by the Claims Tribunal is just, fair and reasonable.

6. Respondents No.1, 2 and 3 are present in Court along with their counsel. Respondent No.1, father of the deceased is working as a labourer and he submits that the deceased was his only son. He further submits that all the four daughters namely sisters of the deceased are still unmarried and the entire family had the hope on the deceased to support the family. He further submits that entire family namely the parents and four unmarried sisters were dependent upon income of the deceased. Respondent No.1 submits that he is staying in rented accommodation and he is unable to sustain the family.

7. The Trial Court record has been perused. PW-3, Accounts Assistant of the employer of the deceased had appeared in the witness box and proved the attendance register and salary record as Ex.PW3/1

and Ex.PW3/2. As per the said record, the salary of the deceased was Rs.6,594/- and after deductions towards EPF, ESIC, Pension etc, the deceased was paid salary of Rs.5,950/- per month for the month of December, 2009. The Claims Tribunal grossly erred in taking salary of Rs.5,950/- instead of Rs.6,594/- per month. The deceased has left behind the family comprising of six dependents namely parents and four unmarried sisters and, therefore, the appropriate deduction should have been $1/4^{th}$ instead of $1/3^{rd}$. The Claims Tribunal has also awarded lower compensation of Rs.10,000/- towards the loss of estate.

8. This Court is of the view that the compensation awarded to the claimants/respondent No.1 to 6 does not warrant any reduction considering that the Claims Tribunal has taken lower income of Rs.5,950/- instead of Rs.6,954/-, and has made higher deduction towards personal expenses and awarded lower compensation under the head of loss of estate. This Court is also satisfied with respect to the involvement of the offending vehicle in the accident.

9. The appeal is dismissed. The appellant has deposited the entire award amount with the Registrar General of this Court in terms of the order dated 05th September, 2014 out of which 60% amount has been released to the claimants and the balance 40% amount is lying with the fixed deposit. The Registrar General is directed to instruct the UCO Bank, Delhi High Court Branch to release Rs.20,000/- to each of the six respondents. The balance amount be kept in 10 fixed deposit of equal amount in the name of respondent No.2 for the period of 1 year, 2 years, 3 years, 4 years, 5 years, 6 years, 7 years, 8 years, 9 years and 10 years.

10. The monthly interest on the FDRs of respondent No. 2 shall be credited in her individual savings bank account. Respondent No.2 shall intimate the particulars of her savings bank accounts to UCO Bank, Delhi High Court Branch.

11. At the time of maturity, the fixed deposit amount shall be automatically credited in the savings bank accounts of respondent No.2.

12. 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.2.

13. No cheque book or debit card be issued to the respondent No.2 without permission of this Court.

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

15. The respondent No.2 shall approach the UCO Bank for completing the formalities for the disbursement of the award amount in terms of this order.

16. UCO Bank, Delhi High Court Branch shall ensure that the savings bank account of respondent No.2 is an individual account and not joint account.

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

OCTOBER 19, 2016 **J.R. MIDHA, J.**

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