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

% **Date of Decision: 23rd December, 2016**

+ MAC.APP. 1192/2013 and CM 27054/2016

THE NEW INDIA ASSURANCE CO LTD Appellant
Through: Mr. Pankaj Seth, Adv.

versus

POONAM SHARMA & ORS Respondents
Through: Mr. Vishal Raj Sehijpal, Mr.
Sunil Sagar, Advs.

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

JUDGMENT

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.36,91,000/- has been awarded by the Claims Tribunal.
2. The accident dated 05th May, 2013 resulted in the death of Vikas Sharma. The deceased was aged 35 years at the time of the accident and was survived by his widow, two sons and one daughter who filed the claim petition before the Claims Tribunal. It was claimed that the deceased was working as a field man with M/s Steel Paradise India Pvt. Ltd. earning Rs.16,000/- per month. The Claims Tribunal took Rs.16,000/- per month as the income of the deceased, added 50% towards future prospects, deducted 1/4th towards personal expenses and applied the multiplier of 16 to compute the loss of dependency as Rs.34,56,000/-. The Claims Tribunal awarded

Rs.1,00,000/- towards loss of love and affection, Rs.1,00,000/- towards loss of consortium, Rs.10,000/- towards loss of estate and Rs.25,000/- towards funeral expenses. The total compensation awarded is Rs.36,91,000/-.

3. Learned counsel for the appellant submitted at the time of the hearing that respondents No.1 to 4 did not lead any evidence to prove the occupation and income of the deceased and the Claims Tribunal took the income of the deceased as Rs.16,000/- per month on the basis of the Detailed Accident Report.

4. There is merit in the contention of learned counsel for the appellant. It was incumbent upon the claimants/respondents No.1 to 4 to prove the occupation and income of the deceased. This Court is of the view that additional evidence with respect to the occupation and income of the deceased is necessary to determine his income.

5. In exercise of power under order XLI Rule 27(1)(b) of Code of Civil Procedure, this Court permits the claimants/respondents No.1 to 4 to lead additional evidence with respect to the occupation and income of the deceased.

6. The appeal is allowed, impugned award is set aside and the matter is remanded back to the Claims Tribunal for recording additional evidence of the claimants/respondents and thereafter, pass a fresh order after hearing the parties.

7. The parties shall appear before the Claims Tribunal on 30th January, 2017.

8. The record of the Claims Tribunal be returned back forthwith.

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

Registrar General of this Court in terms of the order dated 20th December, 2013 out of which 50% amount has been released to claimants/respondents No.1 to 4 and the balance amount is lying in fixed deposit. The Registrar General shall retain the said amount in fixed deposit for a period of six months. The Claims Tribunal shall complete the inquiry and pass the fresh award within a period of six months and send the copy of the same to the Registrar General whereupon the Registrar General shall disburse the amount in terms of the fresh award to be passed by the Claims Tribunal.

10. Pending application is disposed of.

11. Copy of this judgment be given *dasti* to learned counsels for the parties.

DECEMBER 23, 2016
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J.R. MIDHA, J.