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

Date of Decision: 11.05.2016

+ **MAC.APP. 44/2013**

VINOD KUMAR AND ANR

..... Appellant

Through: Mr. K.R. Chawla and Mr. Sunil Verma,
Advocates

versus

BAJAJ ALLIANZ GENERAL INSURANCE

CO LTD. AND ORS

..... Respondents

Through: Mr. Rajat Brar, Advocate for R-1

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT

R.K.GAUBA, J (ORAL):

1. Arun Kumar, 24 years old, a bachelor, studying the degree course of Bachelor of Business Administration (BBA) died in a motor vehicular accident that had occurred on 10.03.2011 involving negligent driving of a truck bearing registration no.HR-38M-8911 (offending vehicle) admittedly insured against third party risk with the first respondent (insurer) for the period in question. His parents (appellants), aged 54 years and 50 years, instituted an accident claim case (suit no.118/2011) on 16.08.2011 seeking compensation under Sections 166 and 140 of the Motor Vehicles Act, 1988

(M.V. Act), impleading the insurer driver and the owner of the offending vehicle as respondents.

2. Upon inquiry, the tribunal, by judgment dated 19.09.2012, which also governed two similarly placed cases, upheld the case of the claimants about death having occurred due to the negligent driving of the offending vehicle. This finding has since attained finality. By the said judgment, the tribunal awarded compensation in the sum of ₹6,75,778/- with interest at the rate of 7.5% p.a. from the date of filing of the petition till realization. The said amount included ₹25,000/- towards loss of love and affection and ₹15,000/- towards funeral expenses.

3. The appeal by the claimants seeking compensation is pressed only to seek enhanced compensation under the non-pecuniary heads of damages, also pointing out that no award was made under the head of loss to estate and further that the rate of interest is deficient.

4. Having heard both sides and having gone through the record, this court finds substance in both the above contentions.

5. Following the view taken in *Rajesh & Ors. v. Rajbir Singh & Ors.*, (2013) 9 SCC 54 and *Shashikala V. Gangalakshamma* (2015) 9 SCC 150, the award on account of loss of love and affection is increased to ₹1 Lakh and that towards funeral expenses is increased to ₹25,000/-. In addition, award in the sum of ₹25,000/- towards loss to estate is added.

6. Following the consistent view taken by this court, the rate of interest is increased to 9% p.a. from the date of filing of the petition till realization.

[see judgment dated 22.02.2016 in MAC.APP. 165/2011 *Oriental Insurance Co Ltd v. Sangeeta Devi & Ors.*].

7. In the result, the award stands enhanced by a sum of ₹1,10,000/- coupled with the effect of increase in the rate of interest. The insurer is directed to deposit the amount payable in terms of the modification in the award ordered above by requisite deposit with the tribunal within 30 days of this judgment whereupon the same shall be released to the claimants as per the apportionment already ordered by the tribunal in the impugned judgment.

7. The appeal is disposed of in above terms.

MAY 11, 2016
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R.K. GAUBA
(JUDGE)

