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

% **Date of Decision: 25th October, 2016**

\+ **MAC.APP. 378/2015 and C.M. Appl. 7496/2015**

ICICI LOMBARD GENERAL INSURANCE CO LTD. ..... Petitioner

Through: Mr. Pankaj Gupta proxy for Ms. Suman Gupta, Advocate

Versus

NIRMALA & ORS. ..... Respondent

Through: Mr. Anshuman Bal, Advocate for respondents No.1 and 2

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.13,85,964/- has been awarded to claimants/respondents No.1 and 2.

2. The accident dated 12th April, 2013 resulted in the death of Sunil. The deceased was aged 22 years at the time of the accident and was self-employed as a motor mechanic. The deceased was survived by his parents, who filed the claim petition before the Claims Tribunal.

3. The Claims Tribunal took the minimum wages of Rs.7,722/- per month, added 50% towards future prospects, deducted one-half towards personal expenses and applied the multiplier of 18 to compute

the loss of dependency at Rs.12,50,964/-. 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.13,85,964/-.

4. Learned counsel for the appellant urged at the time of the hearing of the appeal that the multiplier of 14 be taken according to the age of the mother. It is further submitted that future prospects should not be taken into consideration.

5. Learned counsel for the respondents No.1 and 2 submits that the compensation awarded is just, fair and reasonable. Without prejudice, it is submitted that the Claims Tribunal has awarded lower rate of interest of 8% instead of 9% consistently awarded by the Apex Court as well as this Court.

6. There is merit in the appellant's contention with respect to the multiplier. Since the deceased was unmarried at the time of the accident, the appropriate multiplier has to be applied according to the age of the mother. The multiplier is reduced from 18 to 14. There is no infirmity in the Claims Tribunal adding 50% towards inflation. However, the rate of interest awarded by the Claims Tribunal is on the lower side. The rate of interest is enhanced from 8% to 9%.

7. Taking the income of the deceased as 7,722/- per month, adding 50% towards inflation, deducting 50% towards personal expenses and applying the multiplier of 14, the compensation towards loss of dependency is computed as Rs.9,72,972/-. Adding 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 is

computed as Rs.11,07,972/-

8. The appeal is allowed and the award amount is reduced from Rs.13,85,964/- to Rs.11,07,972/- along with interest @ 9% per annum from the date of filing of the claim petition i.e. 06th June, 2013.

9. The appellant has deposited the entire award amount with UCO Bank, Delhi High Court Branch out of which Rs.15 lakh is lying in fixed deposit in terms of the order dated 10th August, 2016.

10. As per the calculation done by the Accounts Officer of this Court, a sum of Rs. 3,09,894/- is liable to be refunded to the appellant. UCO Bank, Delhi High Court Branch is directed to refund Rs.3,09,894/- to the appellant by discharging the FDR No. 15530310651032 and 15530310651025 for Rs. 1,00,000/- each issued to Respondent No.1 and FDR No.15530310651131 and 15530310651117 for Rs. 50,000/- each issued to Respondent No.2. The remaining amount of Rs. 9,894/- be paid to the appellant by discharging FDR No.15530310651124 of Respondent No.2 and a new FDR for balance amount Rs.40,106/- be prepared for a period of eight years in favour of Respondent No.2.

11. Pending application is disposed of.

12. The statutory amount be refunded back to the appellant.

13. Copy of this judgment be given *dasti* to counsels for the parties under signatures of the Court Master.

OCTOBER 25, 2016 **J.R. MIDHA, J.**

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