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

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

\+ MAC.APP. 650/2015 & CM 15425/2015

NEW INDIA ASSURANCE CO LTD ..... Appellant
Through: Mr. Salil Paul, Advocate.

versus

RAJAN DEVI & ORS ..... Respondents
Through: Mr. Shyam Singh Sisodia, Advocate for respondents no. 1 to 7.

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.14,17,963/- has been awarded to claimants / respondents no. 1 to 7.

2. The accident dated 14th February, 2012 resulted in the death of Paras Ram. The deceased was aged 41 years at the time of the accident and was survived of his widow, three minor daughters, one minor son and parents, who filed the claim petition before the Claims Tribunal. The deceased was working as a salesman and it was claimed that he was earning Rs.10,000/- per month.

3. The Claims Tribunal took maximum wages of Rs. 6656/- in respect of an unskilled worker, added 30% towards future prospects, deducted 1/5th personal expenses and applied the multiplier of 14 to

compute the loss of dependency at Rs.11,62,963/-. 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, Rs.25,000/- towards funeral expenses and Rs.20,000/- towards cost of litigation. Total compensation awarded is Rs.14,17,963/-.

4. Learned counsel for the appellant urged at the time of hearing of the appeal that the future prospects should not be taken into consideration to compute the loss of dependency. It is further submitted that the appellant is entitled to recovery rights against respondents No. 8 and 9 on the ground that the driver of the offending vehicle was not authorized to drive with the vehicle carrying hazardous goods. It is further submitted that the permit did not authorize the offending vehicle to carry the hazardous goods.

5. Respondent no. 1 (widow) and respondent no. 7 (mother) of the deceased are present in the Court along with their counsel and they submit that the deceased was the only earning member in the family. It is further submitted that the father of the deceased (Respondent no. 6) has also expired. It is submitted that respondents are unable to sustain themselves.

6. This court is of the view that even if future prospects are not taken into consideration, the compensation awarded by the Claims Tribunal does not warrant any reduction considering that the deceased left behind seven legal representatives and the deduction of $1/5^{th}$ of the minimum wages towards the personal expenses of the deceased was not justified. This Court is of the view that the compensation awarded to the claimants / respondents is just, fair and reasonable.

7. With respect to the appellants claim for recovery rights, the Claims Tribunal has rejected the appellant's prayer on the ground that there was no evidence to show that the offending vehicle was carrying hazardous goods or cylinders at the time of accident. There is no infirmity in the findings of the Claims Tribunal.

8. The appeal is dismissed. The appellant has deposited the entire award amount with the Registrar General of this Court interim order dated 02nd September, 2015, out of which 50% has been released to the claimants and the balance amount is lying in fixed deposits.

9. The Registrar General is directed to instruct the UCO Bank to keep Rs.8,00,000/- in fixed deposit in the following manner following manner:

<table>
<tr><th>Sr. No</th><th>Duration of FDR</th><th>Resp. 1 (Widow) FDR amount (Rs.)</th><th>Resp. 7 (mother) FDR amount (Rs.)</th><th>Resp. 2 (Minor daughter) FDR amount (Rs.)</th><th>Resp. 3 (Minor daughter) FDR amount (Rs.)</th><th>Resp. 4 (Minor son) FDR amount (Rs.)</th><th>Resp. 5 (Minor daughter) FDR amount (Rs.)</th></tr>
<tr><td>1.</td><td>1 yr</td><td>20,000/-</td><td>25,000/-</td><td rowspan="10">Rs.1,00,000/- be kept in FDR till she attains the age of majority.

On attaining majority, UCO Bank shall release Rs.25,000/- to her and keep the balance amount in 3 FDRs of Rs.25,000/- each for a period of 1 year, 2 years and 3 years.</td><td rowspan="10">Rs.1,00,000/ be kept in FDR till she attains the age of majority.

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<tr><td>2.</td><td>2 yrs</td><td>20,000/-</td><td>25,000/-</td></tr>
<tr><td>3.</td><td>3 yrs</td><td>20,000/-</td><td>25,000/-</td></tr>
<tr><td>4.</td><td>4 yrs</td><td>20,000/-</td><td>25,000/-</td></tr>
<tr><td>5.</td><td>5 yrs</td><td>20,000/-</td><td>25,000/-</td></tr>
<tr><td>6.</td><td>6 yrs</td><td>20,000/-</td><td>25,000/-</td></tr>
<tr><td>7.</td><td>7 yrs</td><td>20,000/-</td><td>25,000/-</td></tr>
<tr><td>8.</td><td>8 yrs</td><td>20,000/-</td><td>25,000/-</td></tr>
<tr><td>9.</td><td>9 yrs</td><td>20,000/-</td><td>-</td></tr>
<tr><td>10.</td><td>10yrs</td><td>20,000/-</td><td>-</td></tr>
<tr><td colspan="2">TOTAL</td><td>2,00,000/-</td><td></td><td>1,00,000/-</td><td>1,00,000/-</td><td>1,00,000/-</td><td>1,00,000/-</td></tr>
<tr><td colspan="3">GRAND TOTAL</td><td colspan="5">8,00,000/-</td></tr>
</table>

10. The balance amount after keeping Rs.8,00,000/- in fixed deposit be released to respondents no. 1 and 7 in equal shares by transferring

the same to their individual savings bank accounts.

11. The monthly interest on the FDRs of respondent Nos.1 and 7 shall be paid to the respondents by transferring the said amount to their individual savings bank accounts. The interest on the FDRs of respondents No.2, 3, 4 and 5 shall be credited in the savings bank account of respondent No.1.

12. At the time of maturity, the fixed deposit amount shall be automatically credited in the individual savings bank accounts of the claimants/beneficiaries.

13. 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 claimants/beneficiaries.

14. No cheque book or debit card be issued to the claimants/respondents without permission of this Court.

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

16. The claimants/respondents shall approach the UCO Bank for completing the formalities for the disbursement of the award amount in terms of this order.

17. UCO Bank, Delhi High Court Branch shall ensure that the savings bank accounts of respondents are individual accounts and not joint accounts.

18. The respondents are at liberty to approach this Court for release of further amount in case of any financial exigency.

19. The statutory amount be refunded back the appellant.

20. Pending application disposed of.

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

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

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