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

+ MAC.APP. 1009/2015 and C.M. Appl. 32151/2015

ORIENTAL INSURANCE CO LTD Appellant

Through: Mr. L.K. Tyagi, Advocate

versus

KAMLA & ORS Respondents

Through: Mr. Navneet Goyal, Advocate for
respondents No.1 to 7

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% **23.08.2016**

1. The appellant has challenged the award dated 12th October, 2015, whereby compensation of Rs.13,69,315.52 has been awarded to claimants/respondents No.1 to 7.

2. The accident dated 16th January, 2008 resulted in the death of Shishu Pal. The deceased was aged 44 years at the time of the accident and was survived by his widow and six children who filed the claim petition. The deceased was selling *gol gappe/tikki*. The Claims Tribunal took minimum wages of Rs.3516/-, added 30% towards future prospects, deducted 1/5th towards his personal expenses and applied the multiplier of 14. The Claims Tribunal awarded Rs.1 lakh to each of the claimants towards loss of love and affection, Rs.25,000/- towards loss of consortium, Rs.10,000/- towards loss of estate and Rs.20,000/- towards funeral expenses. The total compensation awarded is Rs.13,69,315.52.

3. Learned counsel for the appellant has urged at the time of the hearing that the future prospects should not be taken into consideration. It is further submitted that the compensation of Rs.1 lakh awarded to each of the 7 claimants is on a higher side. There is merit in the appellant's contention.

The amount of Rs.1 lakh each to the 7 claimants towards loss of love and affection is on higher side. However, the compensation awarded towards loss of consortium and loss of estate is on a lower side. Taking all these aspects into consideration, this Court is of the view that the just compensation payable to the claimants would be Rs.10 lakh.

4. The appeal is allowed and the award amount is reduced from Rs.13,69,315.52 to Rs.10 lakh along with interest @ 9% per annum.

5. The appellant has deposited the entire award amount awarded to the Claims Tribunal out of which 50% amount has been released to respondent No.1. As per the calculation done by the Accounts Officer, a further sum of Rs.5,25,991.24 is payable to respondents No.1 to 7 as on the date of this order.

6. The Registrar General is directed to transfer Rs.4,00,000/- to UCO Bank, Delhi High Court Branch by means of a cheque drawn in the name of UCO Bank A/c Kamla, whereupon UCO Bank shall keep a sum of Rs.4,00,000/- in fixed deposits in the following manner:

Sr. No.	Duration of FDR	<u>Resp. 1</u> <u>(Wife)</u> <u>(Rs.)</u>	<u>Resp. 6</u> <u>(Minor Daughter)</u> <u>(Rs.)</u>	<u>Resp. 7</u> <u>(Minor Son)</u> <u>(Rs.)</u>
1.	1 year	50,000/-	1,00,000/- till she attains the age of majority. On maturity, FDRs for Rs.1,00,000/- shall be renewed by issuing 4 FDRs of Rs.25,000/- each for a period of 1 year, 2 years, 3 years and 4 years, respectively.	1,00,000/- till he attains the age of majority. On maturity, FDRs for Rs.1,00,000/- shall be renewed by issuing 4 FDRs of Rs.25,000/- each for a period of 1 year, 2 years, 3 years and 4 years, respectively.
2.	2 years	50,000/-		
3.	3 years	50,000/-		
4.	4 years	50,000/-		
TOTAL		2,00,000/-	1,00,000/-	1,00,000/-
GRAND TOTAL				4,00,000/-

7. Rs.1,25,991.24 be released to respondents No.1, 2, 3, 4 & 5 in equal shares by transferring the same to their individual savings bank accounts.

8. Monthly interest on the FDRs of respondents No.1, 6 & 7 shall be

credited in the individual savings bank account of respondent No.1.

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

10. 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 respondents.

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

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

13. The claimants/respondents shall approach the UCO Bank, Delhi High Court Branch for completing the formalities for the disbursement of the award amount in terms of this order.

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

15. The Registrar General shall refund the balance amount to the appellant after disbursing Rs. 5,25,991.24 to respondents No.1 to 5.

16. The Registrar General shall also refund the statutory amount to the appellant.

17. CM No.32151/2015 is disposed of.

18. Copy of this order be given *dasti* to learned counsels for the parties under signatures of the Court Master.

19. Copy of this order be sent to respondents as well as UCO Bank, Delhi High Court Branch.

J.R. MIDHA, J.

AUGUST 23, 2016

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MAC. APP. 1009/2015