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

% **Date of Decision: 16th January, 2017**

\+ MAC.APP.120/2013 & CM No.1962/2013

THE NEW INDIA ASSURANCE CO. LTD...... Appellant
Through: Mr. Shoumik Mazumdar, Adv.

versus

BABLOO KUMAR & ORS. ..... Respondents
Through: Mr. Ashok Kumar, Adv. for R1 to R3.

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.9,44,900/- has been awarded to respondents No.1 to 3.

2. The accident dated 24th October, 2011 resulted in the death of Kamla Devi. The deceased was aged 47 years and was survived by unmarried son, unmarried daughter and a married daughter who filed the claim petition before the Claims Tribunal. The deceased was working as a Safai Karamchari and it was claimed that she was earning Rs.7,500/- per month. The Claims Tribunal took the minimum wages of Rs.6,656/-, added 30% towards future prospects, deducted 1/3rd towards personal expenses and applied the multiplier of 13 to compute the loss of dependency as Rs.8,99,900/-. The Claims Tribunal awarded Rs.25,000/- towards loss of love and affection, Rs.10,000/- towards loss of estate and Rs.10,000/- towards funeral

expenses. The total compensation awarded by the Claims Tribunal is Rs.9,44,900/-.

3. Learned counsel for the petitioner urged at the time of hearing that future prospects of 30% awarded by the Claims Tribunal be set aside. It is further submitted that personal expenses of 1/3rd be increased to 1/2nd. Learned counsel for the appellant further submits that the Claims Tribunal ought to have framed the issues before passing the award.

4. There is no merit in the contentions urged by the learned counsel for the appellant. Since the deceased was aged 47 years, the addition of 30% towards future prospects is fair and reasonable. The deceased has left behind three children and therefore, the deduction of 1/3rd towards personal expenses is fair and reasonable. It is noted that in their written decision before the Claims Tribunal, the appellant had taken minimum wages of Rs.6,084/- and deducted 1/3rd towards the personal expenses and applied the multiplier of 13. In that view of the matter, the plea of reducing the personal expenses is not fair on the part of the appellant. The perusal of the record of the Claims Tribunal reveals that the only issue urged before the Claims Tribunal was with respect to the addition of the future prospects. There is no infirmity in the award of the Claims Tribunal.

5. The appeal is dismissed. The appellant has deposited the entire award amount in terms of the order dated 19th July, 2016 out of which Rs.3,00,000/- has been released to respondents No.1 to 3 and the balance amount is lying in UCO Bank, Delhi High Court Branch.

6. UCO Bank, Delhi High Court Branch is directed to keep

Rs.9,00,000/- in FDR in the following manner:-

7. Rs.3 lakh in 30 FDRs for Rs.10,000/- each in the name of respondent No.1 for the period of 1, 2, 3,4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 months respectively with cumulatively interest.

8. Rs.3 lakh in 30 FDRs for Rs.10,000/- each in the name of respondent No.2 for the period of 1, 2, 3,4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 months respectively with cumulatively interest.

9. Rs.3 lakh in 30 FDRs for Rs.10,000/- each in the name of respondent No.3 for the period of 1, 2, 3,4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 months respectively with cumulatively interest.

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 respondents No.1 to 3.

11. At the time of maturity, the fixed deposit amount shall be transferred in the individual savings bank accounts of the beneficiaries.

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

13. The balance amount after keeping the amount of Rs.9,00,000/- in fixed deposit be released to respondents No.1 to 3 in equal proportion by transferring the same to their individual savings banks accounts.

14. Respondents No.1 to 3 shall approach the UCO Bank for

completing the formalities for the disbursement of the award amount in terms of this order.

15. UCO Bank, Delhi High Court Branch shall ensure that the savings bank accounts of respondents No.1 to 3 are individual accounts and not joint accounts.

16. Copy of this judgment be given dasti to learned counsels for the parties under signature of Court Master.

JANUARY 16, 2017 **J.R. MIDHA, J.**

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