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

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Date of Decision: 19th January, 2017

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+ MAC.APP. 527/2014

ORIENTAL INSURANCE CO LTD Appellant
Through: Mr. J.P.N. Shahi, Advocate

versus

MADAN SINGH & ORS Respondents
Through: Mr. Sanjeev Behl, Advocate for
respondents No.1 to 4

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+ MAC.APP. 152/2016 & C.M. Appl. 5574/2016

MADAN SINGH & ORS Appellant
Through: Mr. Sanjeev Behl, Advocate

versus

RAM KARAN YADAV & ORS. Respondents
Through: Mr. J.P.N. Shahi, Advocate for
respondent No.3

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The parties have challenged the award of the Claims Tribunal whereby compensation of Rs.5,35,620/- has been awarded to the legal representatives of Bahader Singh.

2. The accident dated 03rd December, 2010, resulted in the death of Bahader Singh. The deceased was aged 52 years at the time of the accident and was an agriculturist. The deceased was survived by one son and three daughters who filed the claim petition before the Claims

Tribunal. The Claims Tribunal took minimum wages of Rs.5,278/- in respect of an unskilled worker, added 15% towards inflation, deducted 50% towards personal expenses of the deceased and applied the multiplier of 11 to compute the loss of dependency as Rs.4,00,620/-. The Claims Tribunal awarded Rs.1 lakh towards loss of love and affection, Rs.10,000/- towards loss of estate and Rs.25,000/- towards funeral expenses. The total compensation awarded by the Claims Tribunal is Rs.5,35,620/-.

3. The learned counsel for Oriental Insurance Company Limited urged at the time of hearing that addition of 15% towards inflation be set aside considering that the deceased was more than 50 years of age.

4. Learned counsel for the claimants urged at the time of the hearing that the deceased was an agriculturist and was earning Rs.8,000/- per month apart from the agriculture income. It is further submitted that the deceased, being an agriculturist, the minimum wages of a skilled person be taken into consideration. Learned counsel further seeks the enhancement of compensation under the heads of loss of love and affection and loss of estate.

5. The Claims Tribunal has taken minimum wages of Rs.5,278/- in respect of an unskilled person whereas the deceased was a skilled agriculturist and, therefore, the minimum wages of skilled worker i.e. Rs.6,448/- are taken into consideration instead of Rs.5,278/-. The Claims Tribunal has added 15% towards inflation, which is fair and reasonable and does not warrant any interference. Taking the income of the deceased as Rs.6,448/-, adding 15% towards inflation, deducting 50% towards his personal expenses and applying the multiplier of 11, the loss of dependency is computed as Rs.4,89,403/-. The Claims Tribunal has awarded Rs.1 lakh towards loss of love and

affection. The deceased has left behind one son and three daughters. The compensation of Rs.50,000/- is awarded to each of the four claimants for loss of love and affection. The Claims Tribunal has awarded Rs.10,000/- towards loss of estate and Rs.25,000/- towards funeral expenses, which are fair and reasonable. The claimants are entitled to the total compensation of Rs.7,24,403/- (Rs.4,89,403/- + Rs.50,000/- x 4 + Rs.10,000/- + Rs.25,000/-).

6. MAC. APP. 152/2016 is allowed and the award amount is enhanced from Rs.5,35,620/- to Rs.7,24,403/- along with interest @ 9% per annum from the date of filing of the claim petition i.e. 23rd March, 2011 till realisation. The penal interest of 12% per annum is set aside. MAC. APP. 527/2014 is dismissed. Pending application is disposed of.

7. Oriental Insurance Company Limited is directed to deposit the enhanced award amount with UCO Bank, Delhi High Court Branch by means of a cheque drawn in the name of UCO Bank A/c Madan Singh within 30 days.

8. List for disbursement of the award amount on 23rd February, 2017 at 02:30 p.m.

9. The claimant, Madan Singh, shall remain present in Court on the next date of hearing along with the passbook of the saving bank accounts of all the four claimants near the place of their residence.

10. Learned counsel for the claimants submits that the disbursement of the amount already deposited by the insurance company in terms of para 5 of the order dated 04th November, 2016 has not yet taken place. This Court is of the view that the fresh disbursement order in respect of the entire award amount shall be passed on the next date of hearing. In that view of the matter, para 5 of the order dated 04th November,

2016 is recalled and UCO Bank shall withhold the disbursement in terms of the order dated 04th November, 2016 till the next date of hearing. However, UCO Bank shall keep the amount of Rs.4,04,635/- (Rs.2,67,810/- + Rs.1,36,495/- + Rs.330/-) deposited by Oriental Insurance Company Limited in fixed deposit in its own name till further orders so that the said amount earns interest till the disbursement.

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

JANUARY 19, 2017

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J.R. MIDHA, J.