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

Decided on: 04th August, 2017

\+ MAC.APP. 161/2009

KIDI DEVI & ORS ..... Appellants

Through: Mr. S.N. Parashar, Advocate

versus

MANDEEP MALHOTRA @ MONU & ORS. ..... Respondents

Through: Mr. Sarbendra Kumar, Adv. for R-1 & 2

Mr. Amit Gaur and Mr. Pradeep Gaur, Adv. for R-3

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. Khushal Singh Negi suffered death in a motor vehicular accident that occurred on 28.01.2006 due to negligent driving of a motor vehicle bearing registration no.DL-9CD-5664, admittedly insured against third party risk with the third respondent (insurer). The appellants, being the wife and children of the deceased, instituted claim case (suit no.271/2006) which was decided by the tribunal by judgment dated 15.12.2008 whereby compensation in the total sum of Rs.4,79,520/- was awarded in their favour with interest at the rate of 7.5%, the liability having been fastened on the third respondent. The claimants are in appeal seeking enhancement of the compensation.

2. The grievance urged concerns the non-pecuniary damages awarded in the composite sum of Rs.20,000/- towards funeral expenses and loss of love and affection and the interest at the rate of 7.5% p.a.. It is, however, also noted that the tribunal did not apply the correct multiplier having regard to the age of the deceased (between 35-40 years) multiplier of 16 was inappropriate, the correct multiplier being 15.

3. The tribunal found the annual loss of dependency at Rs.28,720/- after deduction of one-third towards personal and living expenses from the notional wages. The loss of dependency, on the multiplier of 15 would come to (Rs.28,720/- x 15) Rs.4,30,800/-.

4. Indeed, the non-pecuniary damages awarded are deficient. Following the rulings in *Rajesh & Ors. v. Rajbir Singh & Ors., (2013) 9 SCC 54 and Shashikala V. Gangalakshmamma (2015) 9 SCC 150,* awards of Rs.1 Lakh each towards loss of love and affection and loss of consortium and Rs.25,000/- each towards funeral expenses and loss to estate are added.

5. The total compensation in the case, thus, comes to (Rs.4,30,800/- + Rs.1,00,000/- + Rs.1,00,000/- + Rs.25,000/- + Rs.25,000/-) Rs.6,80,800/-, rounded off to Rs.6,81,000/-.

6. Following the consistent view taken by this Court, the rate of interest is increased to 9% per annum from the date of filing of the petition till realization. [see judgment dated 22.02.2016 in MAC.APP. 165/2011 *Oriental Insurance Co Ltd v. Sangeeta Devi & Ors*.].

7. The award is modified accordingly.

8. The tribunal had specified the amounts payable to each of the

claimants. It is directed that the entire enhanced portion of the award including the effect of increased rate of interest shall fall to the share of the first appellant (widow), it to be released in the form of fixed deposit receipt in a nationalized bank taken out for a period of seven years with right to draw monthly interest.

9. The third respondent is directed to satisfy the modified award by requisite deposit with the tribunal within 30 days making it available to be released.

10. The appeal is disposed of in above terms.

R.K.GAUBA, J.

AUGUST 04, 2017
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