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

***Decided on: 11th October, 2017***

\+ MAC APPEAL No.300/2011

NATIONAL INSURANCE CO. LTD. ..... Appellant
Through: Ms. Shantha Devi Raman & Mr. Arihant Jain, Adv.

versus

DILWAR & ORS. ..... Respondents
Through: None.

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

**<u>JUDGMENT (ORAL)</u>**

1. Balram, a bachelor, then aged 23 years, earning his livelihood as manual labourer, engaged on truck bearing registration no. HR 38 9324 (the truck) for loading cargo (stones), died on account of injuries suffered on 30.07.2005, when the truck driven by the third respondent (the driver) turned turtle due to negligence on the part of the latter. The accident claim case (suit 291/2009), instituted on 27.09.2005 by his minor junior siblings dependent on him, they being first and second respondents in the appeal (collectively, the claimants), resulted in inquiry leading to the judgment dated 05.02.2011 whereby compensation in the total sum of Rs. 7,12,792/- was awarded and the liability was fastened on the appellant (insurer) to pay the same with

interest @ 7.5% per annum, it being the insurer of the truck against third party risk for the period in question.

2. The appeal is pressed by the insurer only to submit that it being a case of a bachelor's death, as per the ruling in *Sarla Verma & Ors. v. Delhi Transport Corporation & Anr., (2009) 6 SCC 121*, 50% should have been deducted towards personal & living expenses. This plea must be accepted. The loss of dependency on the notional income of Rs.4568/- is thus recomputed as (4568 ÷ 2 x 12 x 18) Rs.4,93,344/-, rounded off to Rs. 4,94,000/-.

3. It is, however, noted that the tribunal has awarded Rs. 40,000/- towards loss of love & affection and Rs. 15,000/- towards funeral expenses, there being no award under the head of loss of estate. Following the rulings in *Rajesh & Ors. v. Rajbir Singh & Ors., (2013) 9 SCC 54 and Shashikala V. Gangalakshmamma (2015) 9 SCC 150*, compensation in the sum of Rs.1,00,000/- on account of loss of love & affection and Rs. 25,000/- each towards loss of estate and funeral expenses are added.

4. Thus, the total compensation comes to (4,94,000 + 1,00,000 + 25,000 + 25,000) Rs. 6,44,000/- (rupees sixty lacs and forty four thousand only). The award is modified accordingly.

5. Following the consistent view taken by this Court, the rate of interest is increased to 9% (nine per cent) 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*.].

6. By order dated 04.04.2011, the insurance company had been directed to deposit the entire awarded amount with the Registrar General and out of such deposit 50% was allowed to be released, the balance kept in fixed deposit. The registry shall now calculate the balance amount payable to the claimants in terms of the modification ordered above and release the same from out of the balance lying in deposit, refunding the excess, if any, to the insurance company. Conversely, if there is any deficiency in the deposit, the insurance company is obliged to deposit the same with the tribunal within thirty days.

7. The statutory amount shall be refunded after proof of the award having been satisfied is furnished.

**R.K.GAUBA, J.**

**OCTOBER 11, 2017**
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