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

Decided on: 13th September, 2017

\+ MAC APPEAL No. 298/2010

PINKI & ORS. ..... Appellants
Through: Mr. Manish Maini, Advocate

Versus

RUSTAM ALI & ORS. ..... Respondents
Through:

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

<u>JUDGMENT (ORAL)</u>

1. Amit Gupta, a bachelor, died in a motor vehicular accident that occurred on 11.11.2008 due to negligent driving of truck bearing registration No.HR-55-4809, admittedly insured against third party risk with the third respondent (insurer). His widowed mother and younger brother, now the appellants, instituted accident claim case (Petition No.600/2008) on 18.12.2008 seeking compensation. The tribunal, by judgment dated 04.11.2009, awarded compensation in the total sum of Rs.7,97,000/-, fastening the liability on the insurer to pay with interest, the said amount inclusive of Rs.7,67,000/- towards loss of dependency, Rs.20,000/- towards loss of love and affection and Rs.5,000/- each towards funeral expenses and loss to estate.

2. The appeal, seeking enhancement of compensation, is pressed at the hearing only for modification of the awards under the non-pecuniary heads of damages.

3. Following the ruling in *Rajesh & Ors. v. Rajbir Singh & Ors.*, (2013) 9 SCC 54 and *Shashikala V. Gangalakshmamma* (2015) 9 SCC 150, the awards granted by the tribunal being inadequate, the same are modified and instead, the award of Rs.1,00,000/- towards loss of love & affection and Rs.25,000/- each towards loss of estate and funeral expense are added. This would result in net increase in the award by Rs.1,20,000/- (Rupees One Lakh Twenty Thousand Only).

4. Ordered accordingly.

5. It is directed that the enhanced portion of the award shall be paid by the third respondent with interest @ nine per cent (9%) per annum from the date of filing of the petition. The said enhanced portion with corresponding interest shall fall to the share of the first appellant only, it to be released in her favour in the form of fixed deposit interest bearing receipt taken out from a nationalized bank for a period of seven years with right to draw monthly interest. Compliance shall be made by the insurer within thirty days by requisite deposit with the tribunal.

6. The appeal stands disposed of in above terms.

R.K.GAUBA, J.

SEPTEMBER 13, 2017
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