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

Decided on: 14th September, 2017

+ **MAC APPEAL 335/2010**

JOGINDER SINGH & ANR

..... Appellants

Through: None

versus

DAVENDER SINGH & ORS.

..... Respondents

Through: Mr. D.K. Sharma, Adv. for R-3

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. Sudhir, a bachelor, aged 23 years, son of the appellants died due to the injuries suffered by him in a motor vehicular accident that took place on 30.10.2006 due to the negligent driving of a bus bearing registration no.DL-1PA-0337 insured against third party risk with the third respondent (insurer). On their accident claim case (petition no.1368/2006) instituted on 21.12.2006, the Motor Accident Claims Tribunal (Tribunal), by its judgment dated 22.10.2009, awarded compensation in the sum of Rs.3,37,680/- (inclusive of interim compensation), the said amount also including Rs.2,95,680/- towards loss of dependency, Rs.2,000/- towards transportation charges, Rs.10,000/- each towards funeral expenses and loss of estate and Rs.20,000/- towards loss of love and affection. The liability was fastened on the insurance company to pay compensation with interest.

2. The appeal was filed submitting that the compensation awarded is inadequate. Reference is made to the offer of appointment that had been received from a private entity for a job carrying the salary of Rs.7,200/-, as sought to be proved through Palash Manna (PW-3). The appellant also point out that the deceased was holding a Diploma Certificate in Electronic Engineering and, therefore, the loss of dependency, calculated on the basis of minimum wages to a non-matriculate at Rs.3505/- p.m. is deficient.

3. It is, however, noted that the oral claim about the educational qualification of the deceased were not substantiated, despite opportunity, even the Diploma in Engineering not having been brought on record. In these circumstances, there is no scope for any increase in the loss of dependency calculated by the tribunal.

4. But having regard to the rulings in *Rajesh & Ors. v. Rajbir Singh & Ors.*, (2013) 9 SCC 54 and *Shashikala V. Gangalakshamma* (2015) 9 SCC 150, the non-pecuniary damages awarded are found to be deficient. It is, therefore, directed that in addition to the transportation charges added by the tribunal, there shall be an award in the sum of Rs.1,00,000/- towards loss of love and affection, Rs.25,000/- each towards loss to estate and funeral expenses. Thus, the total compensation comes to [Rs.2,95,680/- + Rs.2,000/- + Rs.1,00,000/-+ Rs.25,000/- + Rs.25,000/-] Rs.4,47,680/-, rounded off to Rs.4,48,000/- [Rupees Four Lakh and forty eight thousand only).

5. The award is modified accordingly. Needless to add, the interim compensation will have to be adjusted.

6. The entire enhanced portion of the award with corresponding interest at the rate as levied by the tribunal shall fall to the share of the second appellant Rajbala (mother). The third respondent is directed to pay the said amount by requisite deposit with the tribunal within 30 days, making it available to be released to her.

7. The appeal is disposed of in above terms.

R.K.GAUBA, J.

SEPTEMBER 14, 2017

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