

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

Date of Decision: March 6, 2017

+ **MAC.APP.301/2009 & C.M.8672-73/2009**

ORIENTAL INSURANCE CO. LTD. Appellant

Through: Mr. A.K. Soni, Advocate

versus

R.D. KAUSHIK & ORS. Respondents

Through: Nemo.

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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Impugned Award of 7th February, 2009 grants compensation of ₹1,01,000/- with interest @ 9% p.a. to respondent-claimant on account of death of one *Satish Kaushik*, aged around 37 years in a road accident on 15th October, 1996. The facts are already noted in the impugned order and so needs no reproduction. Suffice to note that deceased was unmarried and was earning ₹5000/- per month. Learned Motor Accident Claims Tribunal (*hereinafter referred to as the 'Tribunal'*) while taking the minimum wages for unskilled labour has assessed the income of deceased as ₹1,680/- p.m.

As per order of 2nd March, 2010, service is complete. None has appeared on behalf of respondents on last so many dates of hearing. With

the assistance of learned counsel for the appellant-Insurer, impugned Award has been perused and thereafter, this Court finds that income of deceased has been rightly assessed by learned Tribunal but learned Tribunal has erred in granting future prospects, as the income of deceased has been assessed on minimum wages. Considering that deceased was not in permanent employment and while applying the dictum of Supreme Court in *Reshma Kumari & Ors. v. Madan Mohan & Anr.* (2013) 9 SCC 65, the addition towards future prospects is disallowed and actual income of deceased is taken to be ₹1,680/- p.m. By deducting 50% towards personal expenses and after applying multiplier of 15, 'loss of earning capacity' is reassessed at ₹1,51,200/-.

Considering the fact that impugned Award grants compensation of ₹1,01,000/- only, no case for reduction of compensation is made out. The rate of interest of 9% p.a. granted by learned Tribunal is in consonance with the Supreme Court decision in *Shivakumar M. Vs. Managing Director, BMTC* 2017 SCC Online SC 148.

In the light of aforesaid, this appeal and application are dismissed while upholding the impugned Award.

Statutory deposit, if any, be refunded to appellant as per rules.

(SUNIL GAUR)
JUDGE

MARCH 6 , 2017

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