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

Decided on: 15th September, 2017

+ MAC.APP. 423/2010

UMED SINGH & ORS. Appellants

Through: Ms. Kavita Tyagi, Advocate with
Mr. Navneet Goyal, Advocate

versus

MAHIPAL & ORS Respondents

Through: Ms. Neerja Sachdeva, Advocate for
R-3.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. Kulwant Singh, 20 years old, a bachelor son of the appellants herein, suffered injuries and died in the consequence on account of motor vehicular accident that took place on 21.05.2007 involving negligent driving of tempo bearing registration No.DL-1LD-6397, by first respondent, admittedly insured against third party risk with the third respondent (insurer) for the period in question. The appellants had instituted accident claim case (Petition No.795/2009) on 07.07.2007 seeking compensation under Section 166 of the Motor Vehicles Act, 1988. The Tribunal held inquiry and, by judgment dated 20.03.2010, upheld the case, returning finding that the accident had occurred causing death due to negligent driving of the said vehicle. It, however, calculated the compensation, particularly under the head of

loss of dependency in terms of Section 163-A of the Motor Vehicles Act, 1988 assuming notional income of the deceased at Rs.15,000/- per month in terms of second Schedule appended to the Motor Vehicles Act, 1988. This assumption was apparently erroneous. Generally, in such like cases, the Tribunal follows the dispensation under the Minimum Wages Act. There is nothing on record to show as to why this case was treated differently.

2. Since the accident had occurred on 21.05.2007, the minimum wages of Rs.3470/- payable to an unskilled worker are taken as the notional income. Since the deceased was a bachelor, 50% would have to be deducted on account of personal and living expenses and the loss of dependency calculated on the basis of multiplier of 11, correctly chosen by the Tribunal with reference to the age of the mother. The loss of dependency is, thus, re-calculated as $(3470/- / 2 \times 12 \times 11)$ Rs.2,29,020/- , rounded off to Rs.2,30,000/-.

3. It is noted that the non-pecuniary damages awarded in the sum of Rs.30,000/- towards loss of love and affection and Rs.10,000/- each towards loss to estate and funeral expenses are highly deficient. Following the view taken in *Rajesh & Ors. v. Rajbir Singh & Ors.*, (2013) 9 SCC 54 and *Shashikala V. Gangalakshamma* (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 expense are added.

4. Thus, the total compensation payable in the case is computed as (2,30,000/- + 1,00,000/- + 25,000/- +25,000/-) Rs.3,80,000/- (Rupees Three Lakh Eighty Thousand Only).

5. The award is enhanced accordingly.

6. It is directed that the enhanced portion of the award shall carry interest @ nine per cent (9%) per annum, it falling entirely to the share of the second appellant (Nirmala Devi), mother of the deceased. The third respondent (insurer) is directed to satisfy the enhanced award by requisite deposit with the tribunal within thirty days.

7. The appeal is disposed of in above terms.

SEPTEMBER 15, 2017

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R.K.GAUBA, J.