

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

Date of decision: March 22, 2017

+ **MAC.APP. 37/2009**

SHRI BIR SINGH & ORSAppellants

Through: **Mr. S.N. Prashar, Advocate**

Versus

SARWAN SINGH & ORS.Respondents

Through: **Mr. A.K.Soni, Advocate, Advocate
for respondent No.3**

**CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR**

**JUDGMENT
ORAL**

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1. In this appeal, enhancement of compensation is sought by appellants-claimants. Vide impugned Award of 24th August, 2006, Motor Accident Claims Tribunal (*hereinafter referred to as 'Tribunal'*) has awarded compensation of ₹8,72,372/- with interest @ 12% p.a. on account of death of Assistant Sub-Inspector of Delhi Police, aged 46 years. The facts already noted in impugned Award need no reproduction as addition of Provident Fund contribution in the income of deceased and grant of compensation under the head '*loss of consortium*' is sought in this appeal.

2. Learned counsel for appellants-claimants submits that provident fund contribution has been wrongly deducted by learned Tribunal while

assessing loss of income of deceased and funeral expenses granted are on the lower side, and that no compensation under the head '*loss of consortium*' has been granted and so, compensation granted needs to be suitably enhanced. On the other hand, learned counsel for respondent-Insurer supports the impugned Award and submits that no case for enhancement of compensation is made out. Nothing else is urged by either side.

3. Upon hearing and on perusal of the Award and evidence on record, I find that deduction of ₹3,500/- p.m. towards provident fund contribution by learned Tribunal is unjustified. The carry home salary of deceased was ₹4,887/- and upon adding provident fund contribution in the monthly salary of deceased and after further adding 30% towards future prospects, the monthly income of deceased comes to ₹10,903/- p.m. After deduction of 1/3 towards personal expenses, the loss of dependency is reassessed as under:-

$$₹7,269 \times 12 \times 13 = ₹11,33,964/-$$

4. In an accident pertaining to the year 2003, Supreme Court in *Sandhya Rani Debbarma & Ors. v. The National Insurance Company Ltd. & Anr.*, 2016 SCC Online SC 945 has granted funeral expenses of ₹25,000/- and compensation of ₹1,00,000/- has been granted under the head of '*loss of consortium*'.

5. Accordingly, the impugned Award is modified by increasing '*funeral expenses*' from ₹10,000/- to ₹25,000/- Learned Tribunal has not awarded any compensation under the head of '*loss of consortium*' to appellants-Claimants. In light of Supreme Court's decision in *Sandhya*

Rani (Supra), appellants-Claimants are granted compensation of ₹1,00,000/- under the head of '*loss of consortium*'.

6. The reassessed compensation payable to appellants-Claimants is as under: -

<i>Loss of dependency</i>	₹11,33,964/-
<i>Loss of love and affection</i>	₹1,00,000/-
<i>Loss of consortium</i>	₹1,00,000/-
<i>Funeral expenses</i>	₹25,000/-
<i>Total compensation</i>	₹13,58,964 /-

7. In the light of aforesaid, the compensation granted to appellants-Claimants is enhanced from ₹8,72,372/- to ₹13,58,964 /-. Respondent-Insurer is granted eight weeks' time to deposit the enhanced compensation of ₹4,86,592 /- along with upto date interest @ 9% *per annum* from the date of filing of the claim petition till the date of deposit with learned Tribunal, who shall transmit it in equal proportion into to the bank accounts of appellants-Claimants (*upon their furnishing bank account details*) as it is now informed by appellants' counsel that appellants No.2 & 3 are of major age.

8. The appeal stands accordingly disposed of while modifying impugned Award in aforesaid terms.

(SUNIL GAUR)
JUDGE

MARCH 22, 2017

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