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

% **Date of Decision: 14th February, 2017**

\+ MAC.APP. 1067/2016

2 PREM LATA & ORS ..... Appellants

Through: Mr. Bhavesh Kumar Sharma and Mr. Ashok Kumar Vashishtha, Advs. for appellants No.1 to 5.

versus

MUKESH KUMAR & ANR
(M/S ORIENTAL INSURANCE CO LTD) ..... Respondents

Through: Mr. Tarkeshwar Nath and Mr. Onkar Nath, Advs. for Oriental Insurance Co. Ltd.

\+ MAC.APP. 327/2016 & CM No.14304/2016

41 ORIENTAL INSURANCE CO LTD ..... Appellant

Through: Mr. Tarkeshwar Nath and Mr. Onkar Nath, Advs. for Oriental Insurance Co. Ltd.

versus

PREM LATA & ORS ..... Respondents

Through: Mr. Bhavesh Kumar Sharma and Mr. Ashok Kumar Vashishtha, Advs. for respondents No.1 to 5.

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. Both the parties have challenged the award of the Claims Tribunal whereby compensation of Rs.13,47,674/- has been awarded

to legal representatives of Bhoj Raj.

2. On 23rd November, 2010, Bhoj Raj was returning from Alwar (Rajasthan) to Delhi in bus No.DL-1PB-6849 which hit against truck No.RJ-02-G-2203. Bhoj Raj suffered fatal injuries due to the accident. The deceased, Bhoj Raj was survived by his widow, two daughters, one son and mother who filed the petition for compensation before the Claims Tribunal. The deceased aged 37 years at the time of accident was working as a painter with Deep Hyundai Workshop earning Rs.10,888/- per month. The Claims Tribunal took the minimum wages of Rs.5,278/-, added 50% towards future prospects, deducted 1/4th towards the personal expenses and applied the multiplier of 15 to compute the loss of dependency as Rs.10,68,795/-. The Claims Tribunal awarded Rs.1 lakh towards loss of love and affection, Rs.20,000/- towards loss of consortium, Rs.20,000/- towards loss of estate, Rs.50,000/- towards funeral expenses, Rs.63,879/- towards medical expenses and Rs.25,000/- towards conveyance charges. The total compensation awarded is Rs.13,47,644/- along with interest @ 9% per annum.

3. The appellant in MAC APP. 327/2016 is seeking reduction of the award amount on the ground that the addition of 50% towards future prospects to be set aside. It is further submitted that the multiplier be reduced from 15 to 13 on the ground that the deceased was 45 years old.

4. The appellant in MAC. APP. 1067/2016 is seeking enhancement of the award amount on the ground that the deceased was earning Rs.10,888/- per month apart from yearly emoluments of

Rs.15,987/- duly proved by the salary certificate, Ex.PW-1/13 which was not considered by the Claims Tribunal. It is further submitted that the deceased was aged 37 years as per the voter ID card and the Tribunal has applied the correct multiplier.

5. The deceased, Bodhraj was working as a painter with Deep Hyundai at the time of the accident. As per the certificate dated 15th February, 2011 duly proved by the claimants as Ex.PW1/13, the deceased was earning Rs.10,888/- per month apart from annual emoluments of Rs.15,987/-. In view of the clear evidence and the income of the deceased, the finding of the Claims Tribunal with respect to the income of the deceased is erroneous. The income of the deceased is taken into consideration as per Ex.PW1/13. The deceased was earning Rs.10,888/- per month out of which the relieving charges of Rs.910/- are excluded. The annual charges of Rs.15,987/- are included by adding Rs.1332.25 per month. The income of the deceased for computation of compensation is taken as Rs.11,310.25 (10,888 – 910 + 1332.25).

6. The age of the deceased at the time of accident as per the Voter ID card was 37 years. However, the age of the deceased as per the Ration card, ESI card as well as death certificate was 45 years. The Court is of the view that the correct age of the deceased at the time of accident was 45 years and therefore, the multiplier is reduced from 15 to 13.

7. The Claims Tribunal has added 50% towards future prospects and deducted 1/4th towards the personal expenses of the deceased which is fair and reasonable.

8. The compensation awarded by the Claims Tribunal towards loss of love and affection, loss of consortium, loss of estate, funeral expenses, medical expenses and conveyance charges is fair and reasonable and does not warrant any interference.

9. Taking income of the deceased Rs.11,310.25/-, adding 50% towards future prospects, deducting 1/4th towards personal expenses and applying the multiplier of 13, the loss of dependency is computed as Rs.19,84,944/-. Adding Rs.1,00,000/- towards loss of love and affection, Rs.20,000/- towards loss of consortium, Rs. 20,000/- towards loss of estate and Rs.63,879/- towards medical expenses, Rs. 25,000/- towards conveyance charges and Rs.50,000/- towards funeral expenses, the total compensation is computed as Rs.22,63,823/-.

10. Both the appeals are partially allowed and the award amount is enhanced from Rs.13,47,674/- to Rs.22,63,823/- along with interest @ 9% per annum from date of filing of petition or DAR whichever is earlier. Pending application disposed of.

11. Oriental Insurance Co. Ltd. is directed to deposit the enhanced award amount along with up to date interest with UCO Bank, Delhi High Court Branch by means of a cheque drawn in the name of UCO Bank A/c Prem Lata within four weeks. The computation of interest along with the proof of deposit be filed within one week of deposit.

12. List for disbursement of the award amount on 11th April, 2017 at 02:30 P.M.

13. The claimants shall remain present on the next date of hearing along with the passbook of their savings bank account near the place of their residence and PAN Card.

14. Copy of this judgment be given *dasti* to learned counsels for the parties under signature of Court Master.

FEBRUARY 14, 2017 **J.R. MIDHA, J.**

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