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

Decided on: 29th August, 2017

\+ MAC APPEAL No. 478/2016

UP STATE ROAD TRANSPORT CORP. ..... Appellant
Through: Ms. Garima Prashad, Adv.

versus

KESHAR & ORS. ..... Respondents
Through: Mr. S.N. Parashar, Adv. for R-1 to 5.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. Nadeem Ansari suffered death in an accident due to negligent driving of bus bearing registration no. UP 81AF 7084 on 20.03.2014, the vehicle admittedly owned by the appellant. On accident claim case (MAC petition 116/2014) instituted by first to fifth respondents (collectively, the claimants) on 05.05.2014, the tribunal awarded compensation in the sum of Rs.16,02,158/- (Rupees Sixteen Lac Two Thousand One Hundred Fifty Eight) directing the appellant to pay with interest @ 12 % per annum.

2. The appeal is pressed at the hearing only to contend that the award under the non-pecuniary heads of damages and the rate of interest levied are excessive.

3. While it is true that the award under the head of loss of love & affection (Rs. 1,90,000/-) is way above the award that has been made in similarly placed cases relating to the accidents of 2014, by the same comparison, the awards towards loss of consortium (Rs. 1,00,000/-) and on account of funeral expenses (Rs. 25,000/-) are inadequate.

4. Thus, following the view taken in MAC.APP.No.160/2015 *Shriram General Insurance Co Ltd v. Usha* decided by this court on 05.05.2016, suitable correction is made. The non-pecuniary damages in the sum of Rs.1,50,000/- each towards loss of love & affection and towards loss of consortium and Rs.50,000/- each towards loss of estate and funeral expense are granted in addition to loss of dependency already taken care of by the tribunal by granting Rs.12,37,158/-. Thus, the total compensation payable in the case comes to (12,37,158 + 1,50,000/- + 1,50,000/- + 50,000/- + 50,000/-) Rs. 16,37,158/-, rounded off to Rs.16,38,000/-. (Rupees Sixteen Lakh and Thirty Eight Thousand Only). The award, thus, instead of being reduced is enhanced accordingly.

5. The rate of interest levied by the tribunal, however, is excessive. Following the consistent view taken by this court in MAC.APP. 165/2011 *Oriental Insurance Co Ltd v. Sangeeta Devi & Ors*.], the rate of interest is reduced to 9% per annum from the date of filing of the petition till realization.

6. By order dated 02.06.2016, the insurance company had been directed to deposit the entire awarded compensation with upto date interest with the tribunal within the period specified and out of such

deposit forty percent (40%) was allowed to be released to the claimants in terms of the impugned judgment, the balance having been kept in fixed deposit initially for a period of one year with a provision for periodical renewal. The balance payable to the claimants shall be released from such deposit, the excess, if any, to be refunded.

7. The insurance company shall satisfy the enhanced portion of the award by requisite deposit, if there is deficiency, with the tribunal which shall fall to the share of the first respondent.

8. The statutory deposit shall be refunded.

R.K.GAUBA, J.

AUGUST 29, 2017
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