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

*Decided on: 14<sup>th</sup> September, 2017*

+ **MAC.APP. 339/2016 and CM APPL.14396/2016 (stay)**

**UNITED INDIA INSURANCE COMPANY LIMITED**

.....Appellant

Through: Mr. Pankaj Gupta, Advocate

versus

**RAJENDER KUMAR & ORS**

..... Respondents

Through: Mr. S.N. Parashar, Advocate  
with Ms. Pankaj Kumari,  
Advocate for R-1 & R-2.

**CORAM:**

**HON'BLE MR. JUSTICE R.K.GAUBA**

**JUDGMENT (ORAL)**

1. The claim petition (MACT No.481/2009) instituted on 11.07.2009 by the first and second respondents (collectively, the claimants) relates to the death of their bachelor son Sagar in a motor vehicular accident that occurred on 13.04.2009, due to negligent driving of dumper bearing registration No.HR-37A-7248, admittedly insured against third party risk with the appellant insurance company (insurer). The tribunal after inquiry, by judgment dated 03.02.2016, awarded compensation in the sum of Rs.6,98,256/- directing the insurer to pay the same with interest @ nine per cent (9%) per annum, the said amount inclusive of Rs.4,73,256/- towards loss of

dependency, Rs.1,00,000/- each towards loss of love and affection and loss to estate and Rs.25,000/- towards funeral expenses.

2. The insurer by the appeal at hand questions the calculation of loss of dependency on the ground that it is based on the multiplier of 18, wrongly chosen as per the age of the deceased and further that the award under the heads of loss to estate is excessive.

3. On the issue of choice of the multiplier in the case of death of a bachelor, this Court in case titled *Reliance General Insurance Company Limited vs. Gomti & Ors.*, MAC APP.467/2016, decided on 24<sup>th</sup> August, 2017, has observed as under:-

*“6. The question as to the choice of multiplier in cases of deaths of bachelors, had come up before this Court in MAC appeal No. 431/2016 National Insurance Co. Ltd. vs. Mohd. Siddique & Ors. decided on 18<sup>th</sup> July, 2017, where it was urged on behalf of the insurance company that the law laid down by the Supreme Court in cases of General Manager, Kerala State Road Transport Corporation vs. Susamma Thomas & Ors., (1994) 2 SCC 176 and U.P. State Road Transport Corporation and Ors. vs. Trilok Chandra and Ors., (1996) 4 SCC 362 continues to prevail as the binding precedent. This Court, after examining the issue in light of the decisions in aforementioned cases and in the cases of Reshma Kumari vs. Madan Mohan (2013) 9 SCC 65 and noting the dicta in Central Board of Dawoodi Bohra Community & Anr. v. State of Maharashtra & Anr., (2005) 2 SCC 67; Safiya Bee v. Mohd. Vajahath Hussain @ Fasi, (2011) 2 SCC 94 and Union of India & Ors. v. S.K. Kapoor, (2011) 4 SCC 589, held as under:-*

*“16. Since the decision in Trilok Chandra and Ors., (supra) by a bench of three Hon’ble Judges is prior in time in relation to the decisions in Reshma Kumari (supra) and Munna Lal Jain (supra), it is the statement of law on*

*choice of multiplier in the former which is to be taken as the binding precedent. Thus, this court will follow the dictum in the said judgment and adopt the multiplier according to the age of the deceased or that of the claimants, whichever is higher”.*”

4. Going by the evidence of the father (PW-12), the learned counsel on both sides agree that the age of the mother would fall within the range of 36-40 years and, therefore, the multiplier of 15 would apply.

5. After notionally assessing the income and making deduction of fifty per cent (50%) towards personal and living expenses, the tribunal had assumed the monthly loss of dependency at Rs.2191/- per month. The loss of dependency, thus, is calculated as (2191/- x 12 x 15) Rs.3,94,380/-, rounded off to Rs.3,95,000/-.

6. The award of Rs.1,00,000/- towards loss to estate is way above the amount generally awarded. Following the ruling in *Rajesh & Ors. v. Rajbir Singh & Ors.*, (2013) 9 SCC 54 and *Shashikala V. Gangalakshamma* (2015) 9 SCC 150, the said amount is determined at Rs.25,000/-. Putting together the other heads of damages awarded by the tribunal, the total compensation comes to (3,95,000/- + 1,00,000/- + 25,000/- + 25,000/-) Rs.5,45,000/- (Rupees Five Lakh Forty Five Thousand Only). The award is modified accordingly. It shall carry interest as levied by the tribunal.

7. By order dated 25.04.2016, the insurer had been directed to deposit the entire awarded amount with interest with the tribunal and out of such deposit, fifty per cent (50%) was allowed to be released. It

is noted that the tribunal had apportioned the compensation awarded by it by specifying the amounts that would fall to the share of the respective claimants. Since amount has been reduced, it is directed that the amount already released to the first respondent (father) shall be treated as his share. The entire balance amount with corresponding interest now go to the second respondent (mother) only.

8. The tribunal shall calculate the amount payable in terms of the modification ordered above and release the same to the claimants from out of the balance which has been retained, refunding the excess to the insurance company along with the statutory amount.

9. The appeal along with accompanying application stands disposed of in above terms.

**SEPTEMBER 14, 2017**  
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**R.K.GAUBA, J.**

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