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

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Date of Decision: 29th August, 2017

+ MAC.APP. 574/2013

23 M/S NAVEEN MOTORS LTD Appellant

Through: Mr. Vijay Kumar and Mr. K.S.
Kashyap, Advs.

versus

SMT. POONAM & ORS. Respondents

Through: Mr. Sudhanshu Tomar, Adv. for R1 to
R7.
Mr. Sanjeev Kumar Jha, Adv. for R9.
Ms. Neerja Sachdeva, Adv. for R10.
SI Rahul, P.S. Kalkaji.

+ MAC.APP. 686/2013

24 POONAM & ORS. Appellants

Through: Mr. Sudhanshu Tomar, Adv.

versus

MOHD. NOOR ALAM & ORS. Respondents

Through: Mr. Vijay Kumar and Mr. K.S.
Kashyap, Advs.
Ms. Neerja Sachdeva, Adv. for R3.
SI Rahul, P.S. Kalkaji.

+ MAC.APP. 760/2013

25 RAVI RANJAN SHARMA Appellant

Through: Mr. Sanjeev Kumar Jha, Adv.

versus

M/S. UNITED INDIA INSURANCE CO. LTD. Respondent

Through: Ms. Neerja Sachdeva, Adv. for R1.
Mr. Vijay Kumar and Mr. K.S.

Kashyap, Advs. for Naveen Motors.
SI Rahul, P.S. Kalkaji.

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

J U D G M E N T

1. The Claims Tribunal has awarded compensation of Rs.6,11,032/- to the legal representatives of late Rajesh which is under challenge in these appeals.
2. On 26th May, 2003 at about 11:00 A.M., Rajesh along with his wife and daughters were sitting on a cot near the gate of Sulabh Sauchalya, Nehru Camp, New Delhi when TATA Sumo bearing No.BR-IT-6566 came from Govindpuri side and hit Rajesh which resulted fatal injuries. The deceased was aged 31 years at the time of accident and was survived by his widow, three daughters and three sons who filed an application for compensation before the Claims Tribunal. Claimant No.6, Muskan expired during the pendency of the petition and her rights have devolved upon the remaining claimants who are substituted in place of claimant No.6. The deceased was working as a sweeper. The Claims Tribunal took the minimum wages of Rs.2,783.90, added 30% towards future prospects, deducted 1/5 towards personal expenses and applied multiplier of 16 to compute the loss of dependency as Rs.5,56,032/-. The Claims Tribunal awarded Rs.25,000/- towards loss of love and affection, Rs.10,000/- towards loss of consortium, Rs.10,000/- towards loss of estate and Rs.10,000/- towards funeral expenses. The total compensation awarded by the Claims Tribunal is Rs.6,11,032/- along with interest @ 7.5% per annum.
3. Learned counsel for Naveen Motors Limited (appellant in MAC.APP.574/2013) urged at the time of hearing that the offending vehicle

was validly insured with United India Insurance Co. Ltd. which should be held liable to pay the compensation. It is further submitted that the appellant is a finance company and had sold the offending vehicle on hire-purchase basis to Ravi Ranjan Sharma who returned the vehicle to the appellant on 19th December, 2002 whereupon the appellant re-sold the vehicle to Pramod Singh who was in possession of the offending vehicle at the time of the accident and is liable to pay the compensation.

4. Learned counsel for Ravi Ranjan Sharma (appellant in MAC.APP.760/2013) submits that the appellant had taken the offending vehicle on hire-purchase from Naveen Motors Limited but the appellant surrendered the vehicle to Naveen Motors Limited on 19th December, 2002 and, therefore, the appellant is not liable to pay the compensation to the legal representatives of the deceased.

5. Learned counsel for the claimants (appellants in MAC.APP.686/2013) seek enhancement of the compensation amount on the ground that the deceased left behind seven legal representatives and, therefore, the deduction towards personal expenses be reduced to 1/5 to 1/6. Learned counsel seeks enhancement under the heads of loss of love and affection, loss of consortium, loss of estate and rate of interest from 7.5% to 9%.

6. In the present case, Naveen Motors Limited had financed the offending vehicle to Ravi Ranjan Sharma. However, Ravi Ranjan Sharma surrendered the vehicle to the appellant on 19th December, 2002. Naveen Motors Limited have admitted the fact that the vehicle was surrendered to them by Ravi Ranjan Sharma on 19th December, 2002. Upon such surrender, Naveen Motors Limited became the owner of the offending vehicle. The plea of Naveen Motors Limited that they sold the vehicle to Pramod Singh on the same day i.e. 19th December, 2012 has not been duly

proved by Naveen Motors Limited inasmuch RW-4, Pankaj Kumar, legal executive of Naveen Motors Limited deposed that all the original documents pertaining to transfer of vehicle to Pramod Kumar have been destroyed in a fire accident that took place on 4th April, 2005 and produced the photocopies of the documents which were marked but not exhibited. As such, there is no infirmity in the award of the Claims Tribunal holding Naveen Motors Limited liable to pay compensation.

7. The insurance company cannot be liable to pay the compensation as the driver of the offending vehicle was not holding any driving license at the time of the accident and the driver has been prosecuted 279/304A IPC read with Section 3/181 of the Motor Vehicles Act.

8. Ravi Ranjan Sharma was the registered owner of the offending vehicle as on the date of the accident in the records of the Transport Authority and, therefore the liability fixed by the Claims Tribunal on Ravi Ranjan Sharma as registered owner of the offending vehicle cannot be faulted. However, Ravi Ranjan Sharma would be entitled to recovery rights against Naveen Motors Limited.

9. With the respect to the claimant's appeal for enhancement, there is a merit in the contention that the personal expenses of deceased be reduced from 1/5 to 1/6 as the deceased is left behind seven legal representatives namely widow, three daughters and three sons. The personal expenses of deceased awarded by the Claims Tribunal are reduced from 1/5 to 1/6. The compensation under the heads of loss of love and affection, loss of consortium, loss of estate and funeral expenses is upheld considering that this case relates to year 2003. However, the rate of interest awarded by the Claims Tribunal is on lower side. This Court has been consistently awarding rate of interest @ 9% per annum. The appellants are liable to total

compensation of Rs.6,44,052/- (Rs.2,783.90 + 30% - $\frac{1}{6} \times 16 \times 12$ + 25,000/- + 10,000/- + 10,000/- + 10,000/- + 10,000/-).

10. MAC.APP.574/2013 is dismissed. MAC.APP.760/2013 is partially allowed to the extent that Ravi Ranjan Sharma would be entitled to recovery rights against Naveen Motors Limited. MAC.APP.686/2013 is allowed and the compensation amount is enhanced from Rs.6,11,032/- to Rs.6,44,052/- along with interest @ 9% per annum from the date of filing of the claim petition till realization.

11. The appellant in MAC.APP.574/2013 has deposited Rs.4,00,000/- with the Registrar General of this Court in terms of the order dated 09th July, 2017 out of which Rs.3,00,000/- has been released to the claimants and the balance amount is lying with the Registrar General of this Court.

12. The Registrar General of this Court is directed to release the balance amount deposited by the appellant to the claimants No.1 to 5 and 7 in equal shares. The share of the minor children be kept in FDRs till they attain age of majority.

13. The statutory amount deposited by the appellants in MAC.APP.574/2013 and 760/2013 is adjusted in the award amount and be released to the claimants in equal proportion.

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

AUGUST 29, 2017/ak

J.R. MIDHA, J.