$~R-574

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

Decided on: 27th November, 2017

\+ MAC APPEAL 909/2012

ASHA & ORS. ..... Appellants

Through: Mr. Navneet Goyal and Ms. Kavita Tyagi, Advocates

versus

KAPOOR SINGH & ORS. ..... Respondents

Through: Mr. Arun Yadav, Adv. for R-3

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

<u>JUDGMENT (ORAL)</u>

1. On accident claim case (MACT case no.317/2011) of the appellants registered on 20.08.2011, the Motor Accident Claims Tribunal (Tribunal), by judgment dated 02.05.2012, awarded total compensation in the sum of Rs.9,26,096/-, it inclusive of Rs.8,76,096/- for loss of dependency, Rs.25,000/- for loss of love and affection, Rs.10,000/- each for loss of consortium and loss to estate and Rs.5,000/- as funeral expenses on account of death of Yogender Saini in a motor vehicular accident that occurred on 06.07.2011 due to negligent driving of a motor vehicle bearing registration no.DL-1GB-6923 admittedly insured against third party risk with the third respondent for the period in question.

2. The appeal seeks enhanced award.

3. It is noted that the tribunal found the income of the deceased to be Rs.6,084/- but did not factor in the future prospects of increase. Following the ruling of a Constitution Bench of the Supreme Court rendered on 31.10.2017 in *SLP (C) 25590/2014, National Insurance Company Ltd. Vs. Pranay Sethi and Ors.*, this factor will have to be added to the extent of 40%. The loss of dependency is thus re-calculated as [Rs.6,084/- x 140/100 x 3 / 4 x 12 x 16] Rs.12,26,534.4, rounded off to Rs.12,27,000/-.

4. The awards under the non-pecuniary heads of damages also have to be brought in accord with *Pranay Sethi* (supra). Thus, in their lieu, Rs.40,000/- towards loss of consortium and Rs.15,000/- each towards loss to estate and funeral expenses are added. The total compensation is computed as [Rs.12,27,000/- + Rs.40,000/- + Rs.15,000/- + Rs.15,000/-] Rs.12,97,000/- (Rupees Twelve Lakh and ninety seven thousand only). The award is modified accordingly.

5. It is noted that the tribunal did not add the element of interest. Following the consistent view taken by this Court, it is directed that the award shall carry interest at the rate of 9% per annum from the date of filing of the petition till realization. [see judgment dated 22.02.2016 in MAC.APP. 165/2011 *Oriental Insurance Co Ltd v. Sangeeta Devi & Ors*.]

6. Having regard to the dispensation made by the tribunal, it is directed that the entire enhanced portion of the award including on account of interest now added shall be payable as compensation exclusively to the share of the first appellant / Asha (widow), it to be released to her in the form of fixed deposit receipt taken out from a

nationalized bank for a period of seven years with right to draw periodic interest.

7. The insurance company is directed to satisfy the award by requisite deposit with the tribunal within 30 days, making it available to be released to the claimant.

8. The appeal is disposed of in above terms.

R.K.GAUBA, J.

NOVEMBER 27, 2017
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