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

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Date of Decision: 31st January, 2017

+ MAC.APP. 806/2013

IFFCO TOKIO GENERAL
INSURANCE CO. LTD.

..... Appellant

Through: Mr. Abhishek Kumar Gola,
Advocate

versus

SUDESH SHARMA & ORS.

..... Respondents

Through: Mr.S.R. Parashar, Mr. S.S.
Parashar, Mr.Anand Parashar,
Advs. for respondents no.1 to 6.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.36,91,825/- has been awarded to respondents no.1 to 6.

2. The accident dated 6th November, 2011 resulted in the death of Rajesh Sharma. The deceased was aged 38 years at the time of the accident and was survived by his widow, three minor children and parents who filed the claim petition before the Claims Tribunal. The deceased was working as a contractor. The Claims Tribunal took his annual income as Rs.1,98,923/- on the basis of his income tax returns, added 50% towards future prospects, deducted 1/4th towards his personal expenses and applied the multiplier of 15 to compute the loss of dependency as Rs.33,56,825/-. The Claims Tribunal awarded Rs.1

lakh towards loss of consortium, Rs.1 lakh towards loss of love and affection, Rs.50,000/- towards medical expenses, Rs.10,000/- towards loss of estate, Rs.50,000/- towards gratuitous services and Rs.25,000/- towards funeral expenses. The total compensation awarded is Rs.36,91,825/-.

3. Learned counsel for the appellant urged at the time of the hearing that the future prospects should not be awarded to the claimants. It is further submitted that the compensation of Rs.50,000/- awarded towards the gratuitous services be set aside.

4. This Court is of the view that the law with respect to addition on account of future prospects is well settled. Since the deceased was aged 38 years at the time of the accident and his occupation as well as income had been duly proved, there is no infirmity in the addition of 50% towards future prospects.

5. With respect to the second ground urged by learned counsel for the appellant, this Court is of the view that there is no infirmity in the award of Rs.50,000/- to respondents no.1 to 6 towards gratuitous services. This Court is of the view that the object of awarding this Compensation is that the pecuniary loss calculated on the basis of the Multiplier does not take care of all the losses suffered by the family of the deceased. Apart from the pecuniary loss caused due to the death, which is computable according to the Multiplier method, the family also suffers loss on account of the services rendered by the deceased to his family, such as the deceased may be personally guiding the children in their education for which they now have to keep a tutor; the deceased may be dropping the children to the school every morning for which an alternative arrangement has to be made. The personal care and attention which the deceased was providing also has

some value. The Courts in England earlier used to award damages solely on the basis of Multiplier Method but the trend has changed and damages are awarded under other heads as well and this law is developing in our country as well.

6. The appeal is dismissed.

7. The Claimants Tribunal attached the account of the appellant to recover the award amount in pursuance to which the appellants' bank deposited Rs.42,28,628/- with the Claims Tribunal on 30th August, 2013. Vide order dated 30th August, 2013, this Court directed the Claims Tribunal to release 70% of the aforesaid amount and keep the balance amount in fixed deposit in pursuance to which a sum of Rs.29,46,400/- was released to respondents No.1 to 6 and the balance amount of Rs.12,82,228/- is lying in fixed deposit with the Claims Tribunal.

8. Respondents No.1 to 6 are present in Court today. They have been examined with respect to their financial status and financial needs. Respondent No.1 is the widow aged 39 years, respondents No.2, 3 and 4 are her children aged 18 years, 16 years and 14 years respectively whereas respondents No.5 and 6 are the parents of the deceased aged 60 years and 67 years respectively. Respondents No.1 to 4 have savings bank accounts with State Bank of Bikaner and Jaipur, Railway Road, Sonapat, respondent No.5 is having savings bank account with Punjab National Bank, Ganaur District, Sonipat whereas respondent No.6 is having savings bank account with State Bank of Patiala, Distt. Smalkha, Panipat. The particulars of their savings bank accounts are as under: -

- (i) Sudesh - Respondent No.1,
SB A/c No.61149856741,
State Bank of Bikaner and Jaipur,

Railway Road, Sonapat,
MICR No.110003031,
IFSC No.SBBJ 00110593.

- (ii) Shubham - Respondent No.2,
SB A/c No.61150990432,
State Bank of Bikaner and Jaipur,
Railway Road, Sonapat,
MICR No.110003031,
IFSC No.SBBJ 00110593.
- (iii) Ms. Shrishti - Respondent No.3,
SB A/c No.61150990556,
State Bank of Bikaner and Jaipur,
Railway Road, Sonapat
MICR No.110003031,
IFSC No.SBBJ 00110593.
- (iv) Master Sagar - Respondent No.4,
SB A/c No.61150990657,
State Bank of Bikaner and Jaipur,
Railway Road, Sonapat,
MICR No.110003031,
IFSC No.SBBJ 00110593
- (v) Raj Rani - Respondent No.5,
SB A/c No.0661001701050478,
Punjab National Bank, Gannaur, Sonapat,
MICR No.110024406,
IFSC No.PUNB 0066100.
- (vi) Suraj Mal Kaushik - Respondent No.6,
SB A/c No.55028493348,
State Bank of Patiala, Smalkha, Panipat,
MICR No.50099,
IFSC No.STBP 0000099.

9. The Claims Tribunal is directed to instruct State Bank of India, Tis Hazari Courts to discharge the FDR in respect of the 30% award amount and disburse the FDR amount along with interest thereon to

respondents No.1 to 6 in the following manner: -

- (a) Rs. 2 lakh be kept in 40 FDRs of Rs.5,000/- in the name of respondent No.1, Sudesh Sharma, for the periods 1 month to 40 months respectively with cumulative interest.
- (b) Rs. 3 lakh be kept 60 FDRs of Rs.5,000/- in the name of respondent No.2, Shubham, for the periods 1 month to 60 months respectively with cumulative interest.
- (c) Rs.3,00,000/- be kept in FDR in the name of respondent No.3, Shrishti till she attains the age of majority. The monthly interest on the FDR be released to respondent No.3 by transferring the same to her savings bank account. On maturity Rs.3,00,000/- be kept in 40 FDRs of Rs.7,500/- each for the periods 1 month to 40 months respectively with cumulative interest.
- (d) Rs.3,00,000/- be kept in FDRs in the name of respondent No.4, Sagar till he attains the age of majority. The monthly interest be released to respondent No.4 by transferring the same to his savings bank account. On maturity Rs.3,00,000/- be kept in 40 FDRs of Rs.7,500/- each for the periods 1 month to 40 months respectively with cumulative interest.
- (e) Rs. 2 lakh be kept in 40 FDRs of Rs.5,000/- in the name of respondent No.5, Raj Rani, for the periods 1 month to 40 months respectively with cumulative interest.
- (f) Rs. 2 lakh be kept in 40 FDRs of Rs.5,000/- in the name of respondent No.6, Suraj Mal Kaushik, for the periods 1 month to 40 months respectively with cumulative interest.

10. The balance amount, after keeping Rs.15 lakh in FDRs, be released to respondents No.1, 2, 5 and 6 in equal proportion by

transferring the same to their savings bank accounts.

11. The original FDRs shall be retained with the bank. However, the photocopies of the same shall be furnished to the respondents.

12. The maturity amount of the FDRs be transferred to the respective savings accounts of the beneficiaries mentioned hereinabove.

13. The parties are given liberty to approach this Court for premature discharge of some FDRs in the event of any financial exigency or marriage of respondents No.2 to 4.

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

JANUARY 31, 2017
dk/rsk

J.R. MIDHA, J.