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

Decided on: 08th August, 2017

+ **MAC APPEAL 479/2009**

KUNJAN SADANA & ANR

..... Appellants

Through: Mr. S.N. Parashar, Ms. Pankaj
Kumari and Ms. Shalini,
Advocates

versus

MAHESH KUMAR & ORS.

.... Respondents

Through: Mr. Pankaj Seth, Adv. for R-3

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. Yitesh Sadana @ Prince, aged about 19 years, a bachelor, suffered death due to injuries sustained in a motor vehicular accident that occurred on 18.04.2007 due to the negligent driving of a bus bearing registration no. DL-1PA-4403 admittedly insured against third party risk with the third respondent (insurer). On the claim petition by his mother and junior sibling (collectively, the claimants), they being the claimants in the appeal at hand, the Motor Accident Claims Tribunal (Tribunal), by judgment dated 06.06.2009, awarded compensation in the total sum of Rs.3,72,620/- with interest at the rate of 7% p.a.

2. The grievance raised at the hearing on this appeal is two-fold, one, that the non-pecuniary damages in the composite sum of Rs.15,000/- towards loss of estate and loss of love and affection and Rs.5,000/- towards funeral expenses were inadequate, and second, that the rate of interest was deficient.

3. The accident had occurred on 18.04.2007. Following the rulings in *Rajesh & Ors. v. Rajbir Singh & Ors.*, (2013) 9 SCC 54 and *Shashikala V. Gangalakshamma* (2015) 9 SCC 150, award of Rs.1 Lakh towards loss of love and affection and Rs.25,000/- each towards loss to estate and funeral expenses should atleast have been granted. Ordered accordingly. Therefore, there would be a net increase of Rs.1,30,000/-.

4. Following the consistent view taken by this Court, the rate of interest is increased to 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.*]

5. The award is modified in above terms.

6. Having regard to the apportionment already made by the tribunal in favour of the second appellant, it is directed that the entire enhanced portion of the award with the effect of increase in the rate of interest shall fall to the share of the first appellant /Kunjan Sadana (mother), it to be released in her favour in the form of an interest bearing fixed deposit receipt taken out from a nationalized bank for a period of seven years with right to draw monthly interest.

7. The insurer is directed to satisfy the enhanced portion of 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.

AUGUST 08, 2017

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