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

Decided on: 29th August, 2017

\+ MAC APPEAL No. 473/2016

INDERPAL & ORS. ..... Appellants

Through: Mr. Amit Kumar Pandey, Adv.

versus

SHRAVAN & ORS. (M/S ORIENTAL INSURANCE CO PVT. LTD. ..... Respondents

Through: Mr. Lalit Kumar Dhingra, Adv. for R-3.

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

JUDGMENT (ORAL)

1. Baljeet Singh, 28 years old, died in motor vehicular accident that occurred on 26.04.2010, due to negligent driving of tempo bearing registration no.DL 1LE 1378 by the first respondent, the said vehicle being owned by the second respondent and insured against third party risk for the period in question with the third respondent. His parents, sister and wife Bharti (collectively, the claimants) instituted accident claim case (MACT No. 113/13/2010) on 08.07.2010 seeking compensation.

2. During inquiry, Bharti, the widow of the deceased died on 19.07.2012. As a result, her name stood dropped out from the array of the petitioners leaving the appellants herein as the claimants. The tribunal, after inquiry, by judgment dated 02.02.2016, awarded

compensation in the sum of Rs. 4,20,012/- (Rupees Four Lac Twenty Thousand and Twelve) and directed the insurance company to pay the same with interest. In calculating the loss of dependency, the tribunal proceeded to apply the multiplier of 9 on the basis of age of the deceased mother (second appellant) for the reason the wife had already died. It is this approach which is the cause for grievance for the appeal to be filed.

3. The contention of the appellants is correct to the effect that the right which had vested in favour of wife of the deceased could not have been defeated in a claim for a fatal accident case. The delay in the proceedings before the tribunal would not mean the dependency loss of wife could have been ignored. Since the deceased was a married person, it could not have been treated as a claim merely of the parents or akin to that of a bachelor.

4. The multiplier of 17 would apply in view of the age of the deceased. Thus, the dependency loss is calculated as (5278 x 2 ÷ 3 x 12 x 17) Rs. 7,17,808.99, rounded off to Rs. 7,18,000/-. It is noted that there is no award of loss of consortium. Therefore, Rs. 1 lakh is added on this account.

5. The total compensation comes to 7,18,000 + 1,00,000+ 1,00,000+ 25,000 + 10,000) Rs. 9,53,000/- (Rupees Nine Lac Fifty Three Thousand). The award is modified accordingly.

6. Having regard to the apportionment made by the tribunal, it is directed that the entire enhanced portion with corresponding interest levied by the tribunal shall be payable to the second appellant (Birmo Devi), mother of the deceased, it to be released to her in the form of

interest bearing fixed deposit receipt, to be taken out in a nationalized bank for a period of seven years with right to draw monthly interest.

7. The insurance company shall deposit the requisite amount in terms of modified award with the tribunal within thirty days, making it available to be released to the claimants.

8. The appeal stands disposed of in above terms.

R.K.GAUBA, J.

AUGUST 29, 2017
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