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

Decided on: 8th August, 2017

+ MAC.APP.689/2017 and CM APPL.28104-28105/2017

SMT. POONAM VERMA & ORS. Appellants
Through: Mr. S. N. Parashar, Advocate

Versus

MAJ. GEN. N.L. PANDY & ANR. Respondents
Through: Mr. S. K. Dubey, Advocate
with Ms. Shuchi Singh,
Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. On the accident claim case (Suit No.126/2016), instituted by the appellants (collectively, the claimants), the Motor Accident Claims Tribunal (the tribunal), by its judgment dated 09.01.2017, has awarded compensation in the total sum of Rs.13,74,000/- on account of death of Anil Kumar Verma, then aged 37 years, working for gain as a cashier in private service with eating establishment “Raju Dhaba” Sector 18, Noida, U.P., the death having occurred, as per the finding returned, due to accident that was caused on account of negligent driving of vehicle bearing registration No.MH-12CE-6729, which was admittedly insured against third party risk with the second respondent (the insurer) on which liability was fastened.

2. The tribunal granted the abovesaid awarded amount of compensation inclusive of Rs.9,73,890/-, calculating it on the basis of

minimum wages of Rs.7214/- per month payable to the unskilled worker in terms of minimum wages prevalent in U.P., the evidence adduced about the salary of Rs.15,000/- per month, not having been accepted.

3. The appeal is pressed by the claimants only on the ground that the minimum wages payable to a semi-skilled worker should have been the appropriate bench mark and that the rate of interest should have been nine per cent (9%).

4. Issue notice to second respondent only. At this stage Mr. S. K. Dubey, Advocate appears and accepts notice on behalf of second respondent. Learned counsel for the second respondent submits he is ready to argue to the basis of available record. With the consent of both sides, the appeal is taken up for final hearing as a short issue arises.

5. The prayer for exemption (CM APPL.28105/2017) is allowed and delay is condoned, this disposing of application (CM APPL.28104/2017) to that effect.

6. Having regard to the fact that the tribunal had accepted the evidence that the deceased was working as a cashier in a private establishment in Noida, it was not proper to assess the income on the basis of minimum wages of an unskilled worker. Given the experience and the nature of duties undertaken, the minimum wages of a semi-skilled worker (Rs.7409/-) should have been adopted. The Tribunal had deducted one-fourth towards personal and living expenses and applied the multiplier of 15, the correctness of which

method is not in dispute. Thus, the loss of dependency is re-calculated as $(7409/- \times \frac{3}{4} \times 12 \times 15)$ Rs.10,00,215/- rounded off to Rs.10,01,000/-.

7. Adding the other components of compensation awarded by the tribunal in the total sum of Rs.4 lacs, the total compensation comes to $(10,01,000/- + 4,00,000/-)$ Rs.14,01,000/-.

8. Following the consistent view taken by this Court [see judgment dated 22.02.2016 in MAC.APP. 165/2011 *Oriental Insurance Co Ltd v. Sangeeta Devi & Ors.*], the rate of interest is increased to 9% per annum from the date of filing of the petition till realization.

9. The award is modified accordingly.

10. The second respondent (the insurer) shall deposit the enhanced amount with interest as per modified award with the tribunal within thirty days, making it available to be released to the claimants.

11. Given the apportionment made by the tribunal, it is directed that the entire enhanced portion along with the effect of the increased rate of interest shall go as share of the first appellant Poonam Verma (the widow), it being released to her in the form of fixed deposit receipt, to be taken out in a nationalized bank for a period of seven years.

12. The appeal stand disposed of in above terms.

13. *Dasti.*

R.K.GAUBA, J.

AUGUST 08, 2017

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