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

Decided on: 14th September, 2017

+ **MAC.APP. 320/2015**

GIRIJA K PILLAI & ORS

..... Appellants

Through: Mr. O.P. Mannie, Advocate

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Mishal Vij, Advocate for Mr.
Rakesh Kumar, CGSC for R-1 & 3

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. Krishna Pillai, aged about 35 years, suffered injuries in a motor vehicular accident that occurred on 28.03.2008 due to the negligent driving of a vehicle described as a truck bearing registration no.87D 73369 M owned the respondents and died in the consequence. The appellants being the members of his family dependent on him, instituted accident claim case (MACP no. 374/08/14) on 23.08.2008 seeking compensation under Section 166 of the Motor Vehicles Act, 1988.

2. After inquiry, the Motor Accident Claims Tribunal (Tribunal), by judgment dated 06.01.2015, accepted the claim for compensation

holding the driver of the offending vehicle (second respondent), employee of the third respondent responsible, the other respondents being held to be vicariously liable. The compensation in the sum of Rs.27,73,000/- was awarded with direction to the respondents to pay the same with interest at the rate of 7.5% p.a., the said amount inclusive of Rs.25,38,000/- towards loss of dependency calculated on the assumption that the deceased was earning Rs.11,750/- per month as salary from M/s. YCH Logistics (India) Pvt. Ltd., evidence in this regard having been brought in by the first appellant (widow) who appeared as witness (PW-1), also examining Radhakrishna Pillai. J, (PW-4), Section Manager Operations of the said entity speaking on the basis of service records showing that the deceased was employed in the capacity of Senior Officer (Operations). The tribunal applied the multiplier of 16 and added the element of future prospects of increase to the extent of 50% and made a deduction of one-fourth towards personal and living expenses, correctly so in the face of clear proof that the deceased was in regular employment with terms of engagement showing progressive rise in income.

3. The claimants are in appeal submitting that the income was under assessed, the evidence of PW-4 instead showing the gross annual remuneration at Rs.1,79,460/-. It is also submitted that the interest levied at the rate of 7.5% is inadequate.

4. Having heard the submission of both sides and having gone through the tribunal's record, this court finds the grievances on both the above mentioned aspects to be correct.

5. It does appear that the tribunal has gone by the salary slip for the month of March 2008 (at page 253 of the tribunal's record). The evidence of PW-4 had brought on record not only a certificate about the terms of engagement (Ex. PW4/2) but also copy of the letter of appointment (Ex. PW4/R1). The said record shows that the deceased was to be paid not merely Rs.12,550/- p.m. as salary and allowances but he was also to be entitled to annual benefits to the extent of Rs.28,860/-, the said component confirming the annual remuneration of Rs.1,79,460/-, the additional benefits having been explained to be in the nature of bonus and other allowances. In these circumstances, the loss of dependency will have to be worked out on the basis of annual income of Rs.1,79,460/-.

6. Adding 50% on account of future prospects of increase, deducting one-fourth towards personal and living expenses, applying the multiplier of 16, the loss of dependency is re-computed [Rs.1,79,460/- x 150/100 x 3/4 x 16] Rs.32,30,280/-, rounded off to Rs.32,31,000/- (Rupees Thirty two Lakh and thirty one thousand only). This would mean the award needs to be increased by [Rs.32,31,000/- (-) Rs.25,38,000/-] Rs.6,93,000/- (Rupees Six Lakh and ninety three thousand only).

7. The total award is thus increased to [Rs.27,73,000/- + 6,93,000/-] Rs.34,66,000/- (Rupees Thirty four Lakh and sixty six thousand only).

8. The appellants concede that the compensation awarded by the tribunal has already been received. The enhanced portion of the award with interest at the rate of 9% p.a. (nine percent) levied thereupon

shall be deposited by the respondents with the tribunal within 30 days, such portion falling to the share of the first appellant / Girija K. Pillai (widow) only, it to be released to her in the form of interest bearing fixed deposit receipt taken out from a nationalized bank in her name for a period of seven years with right to draw monthly interest.

9. The appeal is disposed of in above terms.

R.K.GAUBA, J.

SEPTEMBER 14, 2017

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