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

Decided on: 25th September, 2017

+ **MAC APPEAL 791/2010**

SANTOSH GANDHI & ANR. Appellants
Through: Mr. Nitinjya Chaudhary, Advocate
with Mr. Rajeev Kumar Trivedi,
Advocate

versus

NATIONAL INSURANCE COMPANY LIMITED AND ORS.
..... Respondents
Through: Ms. Rakhi Dubey, Advocate for R-1.

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

JUDGMENT (ORAL)

1. On the accident claim case (MACT No.455/2005) instituted on 16.08.2005 by the appellants (collectively, the claimants) on account of death of their daughter Punita Gandhi which had occurred in a motor vehicular accident that took place on 20.06.2005, compensation in the total sum of Rs.6,50,000/- was awarded and the liability to pay was fastened against the first respondent (insurer), it admittedly having issued the insurance policy covering third party risk for the period in question in respect of the offending vehicle. In the said amount of compensation, non-pecuniary damages in the sum of Rs.50,000/- towards loss of love and affection, Rs.5,000/- towards

funeral expenses and Rs.10,000/- for loss of estate were added, the interest having been awarded only for the period of four years for the reasons the claimants had taken their own time to conclude their evidence.

2. By the appeal at hand, the claimants press for enhancement only under the above mentioned non-pecuniary heads of damages and also seek levy of interest for the entire period, *i.e.*, from the date of filing of the petition till realization.

3. Following the view taken in *Rajesh & Ors. v. Rajbir Singh & Ors.*, (2013) 9 SCC 54 and *Shashikala V. Gangalakshamma* (2015) 9 SCC 150, the non-pecuniary heads of damages on account of loss of love and affection is increased to Rs.1,00,000/- and those towards loss to estate and funeral expenses are increased to Rs.25,000/- each. Thus, the award will stand enhanced by (1,50,000/- (-) 65,000/-) Rs.85,000/- (Rupees Eighty Five Thousand Only).

4. It is directed that the said entire enhanced award shall fall to the share of the first appellant (mother) only.

5. It is noted that the delay in conclusion of the inquiry occurred not only for reasons attributable to the claimants but also by the other parties. Therefore, the restriction of levy of interest to four years only by the Tribunal was not fair. It is directed that the claimants will be entitled to interest from the date of filing of the petition till realization.

6. The first respondent is directed to satisfy the modified award by requisite deposit with the Tribunal within thirty days.

7. The appeal is disposed of in above terms.
8. *Dasti.*

R.K.GAUBA, J.

SEPTEMBER 25, 2017

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