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

% **Date of Decision: 28th August, 2017**

\+ MAC.APP.841/2014 & CM No.15140/2014

THE NEW INDIA ASSURANCE CO LTD ..... Appellant
Through: Mr. J.P.N. Shahi, Adv.

versus

RITA VERMA & ORS ..... Respondents
Through: Mr. Sanjeev Srivastava, Adv. for respondents No.1 to 5 with respondents No.1 to 3 in person.

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.46,43,020/- has been awarded to respondents No.1 to 5.

2. On 19th June, 2011 at about 10:00 A.M., Hemant Verma was going on his motorcycle when he was hit from behind by another motorcycle bearing No. DL-7SAU-7962 in front of Karkardooma Courts. The police registered FIR No.181/2011 under Sections 279/304A IPC at P.S. Anand Vihar. The deceased was survived by his widow, one son, one daughter and parents who filed the application for compensation before the Claims Tribunal. The deceased was aged 40 years at the time of the accident and was running his business of printing and dyeing clothes. The Claims Tribunal took the income of the deceased as Rs.21,768/- per month on the basis of the Income

Tax returns for the year 2009-10 and 2010-11 (Ex.PW1/1 collectively). The Claims Tribunal deducted 1/4th towards personal expenses and applied the multiplier of 15 to compute the loss of dependency as Rs.44,08,020/-. The Claims Tribunal awarded Rs.1,00,000/- towards loss of love and affection, Rs.1,00,000/- towards loss of consortium, Rs.10,000/- towards loss of estate and Rs.25,000/- towards funeral expenses. The total compensation awarded is Rs.46,43,020/-.

3. Learned counsel for the appellant urged at the time of hearing that the occupation and income of the deceased has not been sufficiently proved. It is further submitted that the future prospects should not be taken into consideration. Learned counsel further submits that the deceased was also contributory negligent.

4. The record of the Commissioner, Employees' Compensation has been perused. The respondent No.1, widow of deceased appeared in the witness box as PW-1 to prove the occupation and income of the deceased. PW-1 deposed that her husband was doing his own business earning Rs.28,000/- per month. She proved the copies of the Income Tax returns for the year 2009-2010 and 2010-11 as Ex.PW1/1 (collectively). Learned counsel for the respondents submits that the claimants filed an application for summoning a witness from the Income Tax Department to produce the Income Tax record of the deceased. However, the Claims Tribunal dismissed the application.

5. Vide order dated 09th January, 2017, the Claims Tribunal were directed to produce the record relating to Income Tax returns along with the balance sheets and profit and loss account of the deceased in pursuance to which the relevant records were produced before this Court on 01st August, 2017 and this Court directed the same to be placed on record along with the

affidavit. Respondent No.1 has filed the affidavit along with the Income Tax returns along with the balance sheets and profit and loss account of the deceased for the assessment years 2002-03 to 2011-12. The documents filed by the claimants have been perused. On consideration of the documents filed before the Claims Tribunal and the documents filed now, this Court upholds the income of Rs.21,768/- taken by the Claims Tribunal. Addition of 50% towards future prospects of the deceased by the Claims Tribunal is also upheld. The finding of Claims Tribunal holding the offending motorcycle to be negligent on the ground that the offending vehicle had hit the deceased from behind and the police registered the FIR against the offending vehicle is also upheld. The ground of contributory negligence raised by the appellant is rejected.

6. The appeal is dismissed. Pending application is disposed of.

7. The appellant has deposited the entire award amount with the Registrar General of this Court out of which 60% has been released to the claimants and the balance amount of Rs.22,82,910.80 is lying in fixed deposit. The maturity value of the FDRs as on 24th August, 2017 is Rs.28,09,555.80 and after deducting TDS of Rs.52,665/-, the balance is Rs.27,56,890.80.

8. The Registrar General of this Court is directed to release the said amount to respondents No.1, 2, 3 and 5 by instructing the UCO Bank, Delhi High Court Branch to disburse the said amount in the following manner:-

(i) Rs.10,00,000/- be kept in 100 FDRs of Rs.10,000/- each in the name of Rita Verma (respondent no.1) for the period 1 month to 100 months respectively with cumulative interest.

(ii) Rs.5,00,000/- be kept in 50 FDRs of Rs.10,000/- each in the name of

Sagar Verma (respondent no.2) for the period 1 month to 50 months respectively with cumulative interest.

(iii) Rs.5,00,000/- be kept in 50 FDRs of Rs.10,000/- each in the name of Shubhi Verma (respondent no.3) for the period 1 month to 50 months respectively with cumulative interest.

(iv) Rs.5,00,000/- be kept in 50 FDRs of Rs.10,000/- each in the name of Somvati Verma (respondent no.5) for the period 1 month to 50 months respectively with cumulative interest.

9. The balance amount, after keeping Rs.25,00,000/- in FDRs, be released to respondents no.1, 2, 3 and 5 in equal shares, by transferring the same to their savings bank accounts with Union Bank, Chandar Nagar Branch, Delhi within two weeks. The particulars of savings bank account of respondents No.1 and 3 are given herein below:

(i) Rita Verma (respondent no.1),
A/c No.416202010098100,
Union Bank, Chandar Nagar Branch, Delhi
IFSC Code : UBIN0541621

(ii) Shubhi Verma (respondent no.3),
A/c No.416202010098338,
Union Bank, Chandar Nagar Branch,
IFSC Code : UBIN0541621

10. It is submitted that the respondents No.2 and 5 shall open the savings bank account with Union Bank, Chandar Nagar Branch, Delhi, IFSC Code: UBIN0541621 within two weeks and shall intimate the same to UCO Bank.

11. The maturity amount of the FDRs shall be transferred to the savings bank accounts of the beneficiaries in Union Bank, Chandar Nagar Branch, Delhi, IFSC Code:UBIN0541621.

12. All the original FDRs shall be retained by UCO Bank, Delhi High

Court Branch. However, the statement containing FDR number, FDR amount, date of maturity and the maturity amount be furnished to respondents No.1, 2, 3 and 5.

13. No loan or advance or pre-mature discharge shall be permitted without the permission of this Court.

14. No cheque book or debit card be issued to respondents/beneficiaries without permission of this Court. However, in case, the debit card/cheque book have already been issued, the Union Bank, Chandar Nagar Branch, Delhi shall cancel the debit card and/or cheque book.

15. List for reporting compliance on 11th October, 2017.

16. Copy of this judgment be sent to Union Bank, Chandar Nahgar Branch, Delhi as well as UCO Bank, Delhi High Court Branch for compliance.

17. Copy of this judgment be given *dasti* to learned counsels for the parties under signature of Court Master.

AUGUST 28, 2017 **J.R. MIDHA, J.**

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