

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

Date of decision: April 10, 2017

+ **MAC.APP. 339/2017 & C.M. 13274-75/2017**

UNITED INDIA INSURANCE CO LTD. Appellant

Through: Mr. Amit Gaur & Mr. Pradeep
Gaur, Advocates

Versus

LAJWANTI DEVI & ORS. Respondents

Through: Nemo.

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
ORAL

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1. Impugned Award of 31st January, 2017, grants compensation of ₹14,34,862/- with interest @9% p.a. on account of death of one *Nanu*, aged 28 years, in a road accident on 17th December, 2012.

2. Since the limited challenge to the impugned Award by learned counsel for appellant is on the sole ground that the compensation under the non-pecuniary heads granted by learned Motor Accident Claims Tribunal (*hereinafter referred to as the "Tribunal"*) is on the higher side, therefore, facts as enumerated in the impugned Award, need no reproduction. Suffice to note that deceased was doing business of

footwear in the name and style of *Gauri Footwear* at D-208, Shop No.3, Cinema Plot, Lal Quarter, Krishna Nagar, Delhi and according to evidence of his wife, the deceased was earning ₹30,000/- p.m. However, learned Tribunal has assessed income of deceased on minimum wages of unskilled workman, as documentary proof regarding income of deceased or his educational qualification was not forthcoming.

3. Learned counsel for appellant submits that reliance placed upon Supreme Court's decision in *Kala Devi & ors. Vs. Bhagwan Das Chauhan & ors.* (2015) 2 SCC 771 by the Tribunal while granting compensation of ₹1,00,000/- under the head "*loss of estate*" is unjustified, as in view of Supreme Court's decision in *Shashikala & ors. Vs. Gangalakshamma & anr.* 2015 9 SCC 150 and *Rajesh and Others v. Rajbir Singh and Others*, (2013) 9 SCC 54, compensation awarded under this head ought to be ₹10,000/- and not more.

4. Upon hearing and on perusal of impugned Award, I find that reliance placed upon Supreme Court's decisions in *Shashikala (supra)* and *Rajesh (Supra)* by appellant's counsel is misplaced as in *Shashikala (supra)*, the deceased aged was aged 45 years and compensation of ₹25,000/- was awarded whereas in *Rajesh (Supra)*, no compensation at all was awarded under the head "*loss of estate*". In the instant case, the deceased was aged 28 years and so, the Tribunal has rightly relied upon Supreme Court's decision in *Kala Devi (supra)* to grant compensation of ₹1,00,000/- under this head.

5. In view of aforesaid, this Court finds that no ground to reduce the

quantum of compensation granted under the non-pecuniary head is made out. Appellant is granted four weeks time to deposit the awarded amount with interest @9% p.a. from the date of filing of the claim petition till the date of deposit with learned Tribunal, failing which the impugned Award be executed against appellant.

6. Statutory deposit, if any, be refunded to Insurer as per Rules.
7. With aforesaid directions, this appeal and applications are disposed of.

APRIL 10, 2017

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**(SUNIL GAUR)
JUDGE**