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

Date of Decision: March 16, 2017

\+ **MAC.APP. 334/2015 & C.M.No.6413/2015**

ORIENTAL INSURANCE CO LTD ..... Appellant

Through: Mr. Pradeep Gaur, Advocate

versus

REETA & ORS .....Respondents

Through: Nemo

\+ **MAC.APP. 336/2015 & C.M.No.6427/2015**

ORIENTAL INSURANCE CO LTD ..... Appellant

Through: Mr. Pradeep Gaur, Advocate

versus

SUBHASH SINGH & ORS. .....Respondents

Through: Nemo

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
% **ORAL**

The above captioned two appeals relate to a road accident, which took place on 10th October, 2009, in which driver of Dumper and the helper, who was travelling in that Dumper, had died after collision with another Dumper. Two separate claim petitions were filed by legal heirs of driver and helper of Dumper in question, whose Insurer is appellant herein. Evidence was led by Claimants, but no evidence was led by respondents herein. On the basis of evidence led, Motor Accident Claims

Tribunal *(hereinafter referred to as Tribunal)* has rendered two separate Awards of even date i.e. of 2nd February, 2015.

Respondents/Claimants-*Reeta and others,* in the above-captioned first appeal have been granted compensation of ₹21,79,000/- with interest @ 9% *per annum* whereas in the above-captioned second appeal, respondents/Claimants-*Subhash Singh & Others* have been granted compensation of ₹5,71,000/- with same rate of interest. In these two appeals, as per order of 17th November, 2016, service is complete. But respondents remain unrepresented. The factual background of this case already stands noted in impugned Awards and so, needs no reproduction. Suffice to note that while entertaining these appeals, appellant-Insurer was directed to deposit the awarded amount and it has been so done.

On the request of learned counsel for appellant-Insurer, both these appeals have been heard together and are being decided by this common judgment.

Learned counsel for appellant-Insurer submits that the challenge to impugned Awards in these appeals is on quantum of compensation awarded. The breakup of compensation awarded to respondents/Claimants-*Reeta and others* is as under:-

1.	*Loss of dependency:* *₹8,000/- + ₹4,000/-* *= ₹12,000/- / 1/4th X 12 X 18*	*₹19,44,000/-*
2.	*Loss of love & affection*	*₹2,00,000/-*
3.	*Funeral expenses*	*₹25,000/-*
4.	*Loss of estate*	*₹10,000/-*

Total compensation	***₹21,79,000/-***

The breakup of compensation awarded to respondents/Claimants-*Subhash Singh & others* is as under:-

1.	*Loss of dependency:* *₹4,000/- / 1/3rd X 12 X 14*	*₹3,36,000/-*
2.	*Loss of love & affection*	*₹2,00,000/-*
3.	*Funeral expenses*	*₹25,000/-*
4.	*Loss of estate*	*₹10,000/-*
Total compensation		***₹5,71,000/-***

Learned counsel for appellant-Insurer submits that deceased-*Rahul @ Yashveer*, who was a bachelor aged 20 years at the time of accident, had died in this accident and in the absence of any proof of income, addition of 50% towards *'future prospects'* granted by learned Tribunal is unjustified. It is next submitted by appellant's counsel that learned Tribunal has erred in deducting 1/3rd towards *'personal expenses'* whereas in a case of bachelor, 50% is to be deducted. So, it is submitted that compensation granted to legal heirs of deceased-*Rahul* ought to be suitably reduced.

In the case of deceased-*Devesh Kumar,* aged 26 years, a driver by profession, it is submitted by learned counsel for appellant-Insurer that addition of 50% towards *'future prospects'* is unjustified as above-said deceased was not in stable employment and so, the *'loss of dependency'* needs to be re-assessed and the compensation granted deserves to be suitably reduced. Nothing else is urged on behalf of appellant-Insurer.

Upon hearing and on perusal of impugned Awards and the evidence on record, I find that in above captioned second appeal, although learned Tribunal has held that addition of 50% towards *'future prospects'* is to be made, but while calculating '*loss of dependency'*, no addition towards *'future prospects'* has been made and so, the quantum of compensation granted calls for no reduction. I also find that learned Tribunal has mentioned in impugned Award that deduction of 1/3rd towards *'personal expenses'* of deceased-*Rahul* is to be made, but the calculation made in impugned Award reveals that actually 50% has been deducted towards *'personal expenses'* of deceased and so, the *'loss of dependency'* has been rightly assessed at ₹3,36,000/. Even the compensation granted under the non-pecuniary heads appears to be just and reasonable and call for no interference by this Court.

Whereas in the above captioned first appeal, addition of 50% towards *'future prospects'* has been made by learned Tribunal to assess *'loss of dependency'*. Appellant's plea to calculate the deceased-*Devesh's* income on minimum wages is not found to be just and reasonable and is hence declined as judicial notice can be taken of the fact that in the year 2009, when this accident took place, the salary of Truck drivers used to be ₹10,000/- to ₹12,000/- per month and so, while taking the income of deceased-*Devesh* to be ₹12,000/- per month, I find that the *'loss of dependency'* has been rightly worked out and so, no case for reduction of quantum of compensation is made out.

In view of aforesaid, this Court is of the considered opinion that the quantum of compensation granted to respondents-claimants is fair and just and no case for its reduction is made out. Accordingly, both the appeals are dismissed.

Statutory deposit, if any, be refunded to appellant-Insurer as per Rules. The compensation deposited by appellant be released to respondents-Claimants in the manner indicated in impugned Awards.

The above-captioned two appeals and the pending applications are accordingly disposed of.

(SUNIL GAUR)
JUDGE

MARCH 16, 2017
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