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

Decided on: 4th July, 2017

+ **MAC APPEAL No. 527/2017**

BEBI GIRI

..... Appellant

Through: Mr. Anshuman Bal, Adv.

versus

NATIONAL INS. CO. LTD. & ORS.

..... Respondents

Through: Mr. D.K. Sharma, Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. On the appellant's claim petition No. 3840/2016 (Suit No. 158/2012), by judgment dated 1.8.2016, the motor accident claims tribunal (tribunal) awarded compensation in the sum of Rs. 7,14,448/- with interest @ 9 % per annum on account of death of her 22 year old son Amit Giri in motor vehicular accident that had occurred on 22.09.2011 at about 8.00 p.m. it involving rash driving of truck bearing No. UP 70AT 7483 by the first respondent, it being a vehicle registered in the name of the second respondent and insured against third party risk with the third respondent for the relevant period, the accident having become the subject matter of investigation of first information report (FIR No. 431/2011) of police station Majhola, UP. It may be mentioned here that the claim petition was filed by the

appellant, her husband Ashok Giri having joined as the co-petitioner. Her husband died during the pendency of the proceedings and, thus, the case was prosecuted to the logical end by the appellant only.

2. The appeal at hand seeks to raise a grievance that claimant has not been awarded just compensation. Reliance has been placed on the view taken by a learned single judge of this Court in *MAC Appeal No. 584/2015 HDFC Ergo General Insurance Company Ltd. vs. Suraj Pal & Ors.* decided on 17.11.2016 with argument to the effect that compensation ought not been less than Rs. 10 lakhs in case of death of a person above 20 years.

3. It is noted that the tribunal, on the basis of evidence, found that the deceased was 22 years' old at the time of his death, the claimant being 42 year old at that point of time. The tribunal also noted that the deceased was a bachelor and thus applying the law to such effect after assessing the income of the deceased on the basis of minimum wages for unskilled workers, he being a rickshaw puller, there being no formal proof of actual earnings, deduction was made to the extent of 50% towards personal and living expenses to compute the loss of dependency. Further taking note of the fact that in such like cases where there is no proof of regular income, the question of award of future prospects being still at large in view of the divergent views taken in *Rajesh & Ors. vs. Rajbir Singh & Ors. (2013) 9 SCC 54*; *National Insurance Company Ltd. V. Pushpa & Ors. (2015) 9 SCC 166* and *Reshma Kumari V. Madan Mohan (2013) 9 SCC 65*, the tribunal did not add the said element of future prospects and calculated the compensation on the multiplier of 14.

4. While the learned counsel for the appellant fairly concedes that the tribunal has applied the law as it stands declared presently in letter and spirit if the calculation were to be made on the multiplier method, he relies on the view taken in *HDFC Ergo General Insurance Company Ltd. vs. Suraj Pal & Ors.* (supra) to contend that similar view deserves to be taken here.

5. The learned single judge in the case which is cited referred to *Municipal Corporation of Delhi vs. Association of Victims of Uphaar Tragedy*, AIR 2002 SC 100 for reducing the award of compensation in that case from Rs. 12,33, 272/- to Rs. 10 lakhs. In the considered view of this Court, the lumpsum award granted in the case of Uphaar Cinema Hall fire tragedy cannot be adopted in motor vehicular accident claim cases. Given the settled law on calculation of compensation by multiplier method, as per the consistent view of the Supreme Court in series of judgments including *General Manager, Kerala State Road Transport Corporation, Trivandrum vs. Mrs. Susamma Thomas & Ors.* (1994) 2 SCC 176 and *Sarla Verma V. Delhi Transport Corporation* (2009) 6 SCC 121, the plea raised in the petition cannot be accepted.

6. The appeal, therefore, is dismissed.

R.K.GAUBA, J.

JULY 04, 2017

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