

\$~7

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

Decided on: 12th September, 2017

+ **MAC.APP. 140/2017**

SURAJMUKHI & ANR

..... Appellants

Through: Mr. S.N. Parashar, Advocate

versus

ISMAIL & ORS

..... Respondents

Through: Mr.Navneet Kumar and Mr. Vikas
Bhadana, Advocates for R-3

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The motor vehicular accident that occurred on 05.04.2014 resulting in death of Akhil Kumar was the subject matter of the accident claim case (suit no.261/2014) instituted by the appellants (claimants / parents) on which the impugned judgment dated 21.09.2016 was passed, whereby compensation in the sum of Rs.7,93,600/- was awarded and liability was fastened on the third respondent (insurer of the offending vehicle).

2. The appeal seeking enhancement of the compensation is pressed by the learned counsel for the claimants on their behalf only to submit that the non-pecuniary damages under the heads of loss of love and

affection (Rs.1,00,000/-), funeral expenses (Rs.25,000/-) and loss of estate (Rs.10,000/-) as granted by the tribunal are deficient.

3. Following the view taken in *Shriram General Insurance Co Ltd v. Usha*, MAC.APP.No.160/2015, decided by this court on 05.05.2016, the plea is found to be correct. The awards are increased to Rs.1,50,000/- towards loss of love and affection and Rs.50,000/- each under the heads of funeral expenses and loss to estate. In this view, there would be a net increase in the award by a sum of [Rs.2,50,000/- (-) 1,35,000/-] Rs.1,15,000/- (Rupees one lakh and fifteen thousand) . Ordered accordingly. Needless to add, it shall carry interest at 9% p.a. as levied by the tribunal.

4. It is directed that the entire enhanced portion of the award with corresponding interest shall fall to the share of the first appellant / Surajmukhi (mother), it to be released to her in the form of an interest bearing fixed deposit receipt taken out from a nationalized bank in her name for a period of seven years with right to draw periodic interest. The insurance company (third respondent) shall pay the enhanced portion of the award as well by requisite deposit with the tribunal within 30 days.

5. The appeal is disposed of in above terms.

Dasti.

R.K.GAUBA, J.

SEPTEMBER 12, 2017

yg