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

% **Date of Decision: 12th October, 2018**

\+ MAC.APP. 99/2018 & C.M. Nos.3095/2018, 11945/2018

THE NEW INDIA ASSURANCE CO LTD ..... Appellant
Through: Ms. Awantika Manohar, Mr. Dhawesh Pahuja & Ms. Parul Pradhan, Advocates.

versus

MONIKA TANEJA AND ORS ..... Respondents
Through: Mr. Ashok Popli, Advocate for R-1 to 3.

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.93,98,822/- has been awarded to respondents No.1 to 3. The appellant seeks reduction of the award amount.

2. The accident dated 15th June, 2014 resulted in the death of Rajesh. The deceased was aged 50 years at the time of the accident and was self-employed. The deceased was survived by his widow, one son and one daughter.

3. The Claims Tribunal took the income of the deceased as Rs.10,72,941/- per annum according to his Income-Tax Return for the assessment year 2013-14, deducted 1/3rd towards his personal expenses and

applied the multiplier of 13 to compute the loss of dependency as Rs.92,98,822/-. The Claims Tribunal awarded Rs.30,000/- towards the loss of love and affection, Rs.40,000/- towards consortium, Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses. The total compensation of Rs.93,98,822/- has been awarded by the Claims Tribunal.

4. The learned counsel for the appellant urged at the time of hearing that the loss of income of Rs.9,40,827/- per annum towards income from house property have been wrongly awarded as the income from house property would have continued after his death. Learned counsel further submitted that the amount of Rs.30,000/- awarded towards loss of love and affection is no more a permissible head in terms of the principles laid down in ***National Insurance Co. Limited vs. Pranay Sethi*** 2017 SCC Online SC 1270.

5. Learned counsel for the claimants have no objection to the deletion of income from the house property and he submits that income of the deceased, other than the income from the house property, be taken in terms of the Income Tax Return for the assessment year 2014-15. It is further submitted that the Claims Tribunal has not awarded future prospects of 25% to the claimants. Reliance is placed on ***Pranay Sethi*** (*supra*).

6. There is merit in the contentions urged by learned counsels for the parties. The income of the deceased is taken as Rs.1,94,534/- per annum after deducting the income from house property. The Claims Tribunal has awarded Rs.30,000/- towards the loss of love and affection which is no more a permissible head and is, therefore, set aside. The claimants are entitled to the future prospects @ 25% in terms of the principles laid down in ***Pranay Sethi*** (*supra*).

7. Taking the income of the deceased as Rs.1,94,534/- per annum,

adding 25% towards the future prospects, deducting 1/3rd towards personal expenses and applying the multiplier of 13, the loss of dependency is computed as Rs.21,07,451.67. Adding Rs. 70,000/- (Rs.40,000/- for loss of consortium + Rs.15,000 towards loss of estate + Rs.15,000 towards funeral expenses) towards non-pecuniary compensation, the total compensation is computed as Rs.21,77,451.67 rounded off to Rs.21,77,500/-.

8. The appeal is allowed and the award amount is reduced from Rs.93,98,822/- to Rs.21,77,500/- along with interest at the rate of 9% per annum from the date of filing the petition i.e. 26th September, 2014.

9. The appellant has deposited Rs.20,00,000/- with the Registrar General of this court. The total compensation including interest as of today, is computed as Rs.29,69,990.68 (Rs.21,77,500 + Rs. 7,92,490.68) rounded off to Rs.29,70,000/-. The appellant is directed to deposit the remaining amount of Rs.9,70,000/- with the Registrar General of this Court within 4 weeks from today.

10. List for disbursement of the compensation amount on 30th November, 2018.

11. The claimants shall remain present in Court on the next date of hearing along with the passbook of their savings bank account near the place of their residence as well as PAN card and Aadhaar card. The concerned bank of the claimants is directed not to issue any cheque book or debit card to them and if the same have already been issued, the bank is directed to cancel the same and make an endorsement on their passbooks to this effect. The claimants shall produce the copy of this judgment to the concerned bank, whereupon the bank shall make an endorsement on the passbook of the claimants that no cheque book and/or debit card shall be issued to them

without the permission of this Court. However, the concerned bank shall permit the claimants to withdraw money from their savings bank account by means of a withdrawal form.

12. Pending applications are disposed of.

13. Copy of this judgment be given *dasti* to counsels for the parties under signatures of the Court Master.

OCTOBER 12, 2018 **J.R.MIDHA, J.**

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