

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

Date of Order: August 02, 2018

+ **MAC.APP. 235/2013**

THE NEW INDIA ASSURANCE CO. LTD.Appellant
Through: Mr. Pankaj Seth, Advocate

versus

PAMMI NAGI & ORS.Respondents
Through: Mr. Ranbir Singh, Advocate

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Impugned Award of 27th November, 2012 grants compensation of ₹35,90,900/- on account of death of one *Rakesh* aged 49 years in a vehicular accident. The facts, as noticed in the impugned Award, are as under: -

“Brief facts as narrated in petition in nutshell are that on 22.02.2010 at about 11.45 p.m the victim was travelling along with respondent no. 1 as a pillion rider on a motorcycle bearing registration no DL-8SAQ-4989 and when they reached in front of Shanti Bhawan, Safdarjung Enclave, New Delhi, the respondent no. 1 hit the motorcycle against the divider consequently causing fatal injuries to Sh Rakesh Nagi (victim/pillion rider). The claim of the claimants is that the alleged accident was caused by respondent no. 1 who was driving the aforesaid motorcycle in rash and negligent manner without observing traffic rules. It was further claimed that on the date of death Sh. Rakesh Nagi was about

48 years and was earning Rs. 37,333/- per month by working as Assistant Supervisor at Blues Jewellery Company situated at G-13, South Extension Part-1, New Delhi. On these premises, the claimants filed the claim petition seeking compensation of Rs. 90 lakhs.”

2. The break-up of the compensation awarded by the Tribunal is as under: -

Loss of dependency	: ₹35,40,900.00
Loss of consortium	: ₹10,000.00
On account of Love and affection	: ₹25,000.00
Funeral Expenses	: ₹15,000.00
Total	: ₹35,90,900.00

3. The challenge to impugned Award by learned counsel for appellant-*Insurer* is not on the quantum, but on the ground that the insured vehicle was not involved in this accident and that there was no negligence on the part of driver of insured vehicle. No evidence was led by appellant-*Insurer* before the Tribunal. However, by way of additional evidence, appellant has got examined an eye-witness *Rajpreet Singh Vohra* as AW-3, who has not supported the case of appellant.

4. Upon hearing and on perusal of impugned Award and the evidence on record as well as additional evidence led, I find that there is no basis for this Court to take a contrary view than the one taken by the Tribunal, as the additional evidence does not advance the case of appellant. In view thereof, finding no substance in this appeal, it is dismissed. Statutory deposit, if any, be refunded to appellant-*Insurer*. Registry is directed to release the compensation deposited by appellant-*Insurer* to respondents-Claimants in the manner as indicated in the impugned Award.

5. In aforesaid terms, this appeal is disposed of.

(SUNIL GAUR)
JUDGE

AUGUST 02, 2018

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