

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

Date of Decision: August 01, 2018

+ **MAC. APP. 258/2013**

UNITED INDIA INSURANCE COMPANY LTD. Appellant

Through: Mr. S.K. Ray and Ms. Neetika
Chaturvedi, Advocates

versus

VIJAY SINGH (FATHER OF DECEASED)

& ORS.

..... Respondents

Through: Nemo

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

1. Impugned Award of 17th November, 2012 grants compensation of ₹8,96,496/- with interest @7.5% p.a. to respondents-claimants on account of death of a vegetable vendor-Ashok S/o Vijay Singh, aged 28 years in a vehicular accident on 1st April, 2011.
2. The factual background of this case, as noticed in the impugned Award, is as under:-

“Petitioner examined Rakesh Sharma eye witness on the basis of whose statement FIR was registered. Rakesh Sharma as PW1 deposed that on 01.04.11 he along with Ashok Kumar had gone to Jahangir Puri for buying certain goods. They were crossing the road between Bhalswa Dairy busstand & Babu Jagjivan Ram bus stand, Jahangir Puri,

Delhi at about 5:45 pm. He had crossed the road and Ashok was following him. After crossing the road, he was waiting for Ashok while standing on the divider. Suddenly he saw that Tata India Car bearing registration no. DL-3C-AC-9694 (in short the offending vehicle) being driven at a very fast speed, rashly and negligently without blowing any horn hit Ashok. As a result of forceful impact, Ashok received grievous injuries and started bleeding from his head profusely. Ashok succumbed to the injuries and dead on the spot.”

3. On the basis of evidence led, impugned Award has been rendered by Motor Accident Claims Tribunal (*henceforth referred to as “the Tribunal”*) and the breakup of compensation awarded is as under:-

S.No.	Description	Amount
1.	Loss of Dependency	₹8,51,496/-
2.	Loss of love and affection	₹25,000/-
3.	Funeral Expenses	₹10,000/-
4.	Loss of Estate	₹10,000/-
Total		₹8,96,496/-

4. The challenge to impugned Award by learned counsel for appellant-*Insurer* is on the ground that the Tribunal has erred in applying multiplier as per the age of deceased and the applicable multiplier ought to be as per the age of claimants. Learned counsel for appellant-*Insurer* further submits that compensation granted under the “*non-pecuniary heads*” ought to be suitably reduced in light of decision of Supreme Court’s Constitution Bench in *National Insurance Company Ltd. Vs. Pranay Sethi & ors.* (2017) 16 SCC 680.

5. It is evident from the orders of 23rd May, 2013 and 29th August, 2013 that the service is complete. Despite being served, respondents have chosen not to come forward to contest this appeal. It is pointed out

that appellant has already deposited the awarded compensation.

6. Upon hearing and on perusal of impugned Award, evidence on record and the decision cited, I find that in view of Supreme Court's Constitution Bench decision in *Pranay Sethi (Supra)*, the application of multiplier has to be as per the age of deceased. The Tribunal has rightly applied the multiplier of 17 as the deceased was aged 28 years on the date of the accident. The deceased was a bachelor and the Tribunal has rightly made deduction of 50% towards the "*personal expenses*". However, in view of Supreme Court's decision in *Pranay Sethi (Supra)*, the compensation of ₹25,000/- granted by the Tribunal under the head of "*loss of love and affection*" is disallowed, but the "*funeral expenses*" granted by the Tribunal are increased from ₹10,000/- to ₹15,000/-. The compensation awarded by the Tribunal under the head of "*loss of estate*" is justified but its quantum is inadequate. In view of Supreme Court's decision in *Pranay Sethi (Supra)*, compensation under the head of "*loss of estate*" is increased from ₹10,000/- to ₹15,000/-. However, the quantum of compensation granted under the head of "*loss of dependency*" is justified and is maintained.

7. Accordingly, the compensation payable to the legal heirs of the deceased is reassessed as under:-

S.No.	Description	Amount
1.	Loss of Dependency	₹8,51,496/-
2.	Funeral Expenses	₹15,000/-
3.	Loss of Estate	₹15,000/-
Total		₹8,81,496/-

8. In light of the aforesaid, total compensation payable to

respondents-*Claimants* is reduced from ₹8,96,496/- to ₹8,81,496/-. A Three Judge Bench of Supreme Court in a recent decision of *Jagdish v. Mohan and Others*, (2018) 4 SCC 571 has granted interest @ 9% *per annum* on the awarded compensation and so, interest @ 9% *per annum* is awarded on the modified compensation. In case there is any excess deposit by the Insurer, it be refunded to Insurer. Thereafter, the modified compensation be released forthwith to respondent-*Claimants* in the manner and ratio as indicated in the impugned award. Statutory deposit, if any, be refunded to the appellant-*Insurer*.

9. This appeal is disposed of while modifying the impugned Award in aforesaid terms.

(SUNIL GAUR)
JUDGE

AUGUST 01, 2018

v