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

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+ MAC.APP. 241/2008

ORIENTAL INSURANCE CO. LTD. Appellant

Through: Mr. Ram N. Sharma, Adv.

versus

POONAM & ORS. Respondents

Through: Mr. S.N. Parashar, Adv.

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+ MAC.APP. 852/2017

POONAM & ANR Appellants

Through: Mr. Ram N. Sharma, Adv.

versus

THE ORIENTAL INSURANCE CO LTD & ORS Respondents

Through: Mr. S.N. Parashar, Adv.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% **05.02.2018**

MAC.APP.241/2008 and MAC.APP.852/2017

1. The parties have challenged the impugned award dated 9th January, 2008 whereby compensation of Rs. 17,36,000/- has been awarded to the legal representatives of Vijay Kumar.
2. The deceased, Vijay Singh Dhama was working as a Constable with CRPF posted at 12th Coy. 55 Bn CRPF, New Bus Stand, Jagdalpur, Chhattisgarh at the time of his death on 12th May, 2006. The gross salary of the deceased at the time of his death as been proved by PW-3 as Rs.7,000/- per month. The Claims Tribunal has added 50% towards the future

prospects and has taken the income of the deceased as Rs.10,500/- per month.

3. The contention of learned counsel for the appellant in MAC APP.241/2008 is that future prospects should not be taken whereas contention of learned counsel for claimants is that the income of the deceased should be taken as Rs.14,000/- per month considering that the deceased was aged 25 years at the time of his death and retirement age was 57 years.

4. Vide order dated 16th August, 2016, notice was issued to CRPF to confirm the salary structure of the deceased at the time of his retirement if he had not died in the accident in question.

5. CRPF has filed the status report according to which the deceased would have got the salary of Rs. 68,000/- of the date of superannuation on 31st March, 2038, if he had not died in the accident.

6. The appellant in MAC.APP.852/2017 is seeking enhancement of the compensation by taking the future prospects according to the status report of CRPF.

7. Learned counsel for the appellant in MAC.APP. 241/2008 submits that the status report of CRPF has not been proved in accordance with law.

8. Learned counsel for the appellant in MAC.APP.852/2017 seeks permission to lead additional evidence to prove the status report of CRPF in accordance with law.

9. This Court is satisfied that the additional evidence is necessary for determining the compensation to which the legal representatives of the deceased would be entitled to in accordance with law. In exercise of the power under Order XLI Rule 27 (1) (b) of the Code of Civil Procedure, 1908, this Court permits the additional evidence to be recorded in this matter.

10. In the facts and circumstances of this case, both the appeals are allowed; the impugned award is set aside and the matter be remanded back

to the Claims Tribunal to record the additional evidence of CRPF with respect to the status report dated 20th September, 2016 filed by them before this Court. The compensation of Rs.17,36,000/- along with the interest thereon has been already deposited and released to the legal representatives of the deceased. The Claims Tribunal shall pass a fresh award after recording the additional evidence. The Claims Tribunal shall adjust the said amount in the fresh order to be passed in terms of this order.

11. The record of the Claims Tribunal be returned back forthwith.

12. The original status report along with the salary structure was filed by CRPF before this Court on 20th September, 2016 at pages 39-42 (4 pages) be sent to the Claims Tribunal after retaining copy on this record.

13. The parties shall appear before the Claims Tribunal on 5th March, 2018 when the Claims Tribunal shall issue notice to the CRPF to send the competent witness along with the salary record of the deceased on the basis of which the status report was prepared and filed before this Court.

14. Copy of this order be given *dasti* to counsels for the parties under signature of Court Master.

J.R. MIDHA, J.

FEBRUARY 05, 2018

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