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

Date of Decision: July 06, 2018

\+ **MAC. APP.92/2013**

UNITED INDIA INSURANCE CO. LTD. ..... Appellant
Through: Mr. Pankaj Gupta, Advocate

versus

DARSHANA & ORS. ....Respondents
Through: Mr. Navneet Goyal, Advocate for respondents-Claimants

\+ **MAC. APP.572/2013**

DARSHANA & ORS. ..... Appellants
Through: Mr. Navneet Goyal, Advocate

versus

UNITED INDIA INSURANCE CO. LTD. ....Respondent
Through: Mr. Pankaj Gupta, Advocate

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

1. The above-captioned two appeals are directed against impugned Award of 1st November, 2012 vide which *Motor Accident Claims Tribunal-01, West, Tis Hazari Courts, Delhi (hereinafter referred to as 'the Tribunal')* has awarded compensation of ₹21,51,000/- with interest @ 7.5% *per annum* to Claimants on account of death of one *Ravinder* in a vehicular accident on 8th March, 2011. The above-captioned first appeal is by the Insurer to seek reduction of the quantum of compensation

granted, whereas in the above-captioned second appeal, Claimants seek enhancement in the quantum of compensation granted by the Tribunal.

2. The factual background of this case, as noticed in the impugned Award, is as under:-

> *"The case of the petitioners is that on 08.03.11 at near M.S.Marg Red Light, Marble Market, Rajouri Garden, Delhi Sh. Ravinder (the son of the petitioners) was going on his motorcycle bearing registration number DL-4S-AR-9783. The deceased was hit by the vehicle bearing registration no. HR-61-5073 which was being driven by the respondent no. 1 in a rash and negligent manner. Sh. Ravinder has died as a result of the accident caused by the respondent no. 1. The petitioners has filed the petition for the grant of compensation against the respondents."*

3. With the consent of learned counsel for the parties, the above-captioned appeals have been heard together and are being disposed of by this common judgment.

4. On the basis of evidence led, the Tribunal has granted compensation of ₹21,51,000/- to Claimants and its break-up is as under: -

Loss of dependency	:	*₹21,06,000/-*
Funeral expenses	:	*₹ 10,000/-*
Loss of love and affection	:	*₹ 25,000/-*
Loss of Estate	:	*₹ 10,000/-*
Total	:	***₹21,51,000/-***

5. The challenge to impugned Award by learned counsel for Insurer is on the ground that the multiplier applicable in case of deceased, who was

a bachelor, would be as per the age of his parents and not as per the age of deceased. It is pointed out by learned counsel for Insurer that addition of 30% towards *'future prospects'* granted by the Tribunal is unjustified as nature of employment of deceased was temporary. He further submits that though the salary of deceased was ₹15,000/- per month, but he had died on the next day of joining the new job and had not received any salary and therefore, *'last drawn salary'* by deceased in February, 2011 ought to be the basis to assess the *'loss of dependency'*.

6. Learned counsel for Insurer further submits that compensation granted under the *"non-pecuniary heads"* ought to be reduced in light of decision of Constitution Bench of Supreme Court in *National Insurance Company Ltd. Vs. Pranay Sethi & ors.* (2017) 16 SCC 680. Thus, it is submitted that the awarded compensation deserves to be suitably reduced.

7. On the other hand, learned counsel for Claimants submits that compensation granted by the Tribunal is inadequate and it needs to be suitably enhanced. To submit so, it is pointed out that deceased was aged 24 years and so, addition towards *'future prospects'* ought to be 50% and not 30%. It is submitted that the rate of interest awarded by the Tribunal ought to be 9% *per annum* and not 7.5% *per annum.* Nothing else is urged on behalf of either side.

8. Upon hearing and on perusal of impugned Award and the evidence on record, I find that the Tribunal has rightly relied upon *'appointment letter'* of 25th February, 2011 *(Ex.PW1/3)* issued to deceased to take the monthly income of deceased to be ₹15,000/- per month. Regarding addition towards *'future prospects'*, I find that in view of Supreme Court's Constitution Bench decision in *National Insurance Company Ltd. Vs.*

Pranay Sethi & ors. (2017) 16 SCC 680, it has to be 40% as the deceased was on fixed salary.

9. In the considered opinion of this Court, multiplier of 18 has been rightly applied by the Tribunal as Supreme Court in *Pranay Sethi (supra)* has clarified that the applicable multiplier would be as per the age of deceased and not as per the age of claimants. In view of above, *'loss of dependency'* is reassessed as under: -

₹15,000/- X 12 X 140/100 X 50/100 X 18 = ₹22,68,000/-

10. As regards compensation granted under the *'non pecuniary heads'*, it needs to be brought in tune with decision of Constitution Bench of Supreme Court in *Pranay Sethi (supra).* Accordingly, compensation granted by the Tribunal under the head of *'loss of love & affection'* is disallowed. However, *"funeral expenses"* are increased from ₹10,000/- to ₹15,000/-. Similarly, compensation granted under the head *"loss of estate"* is also increased from ₹10,000/- to ₹15,000/-. As far as interest granted by the Tribunal is concerned, I find that 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, appellant is also entitled to interest @ 9% *per annum*. In light of the aforesaid, the compensation payable to Claimants is reassessed as under:-

1.	Loss of dependency	: ₹ 22,68,000/-
2.	Funeral expenses	: ₹ 15,000/-
3.	Loss of estate	: ₹ 15,000/-
	Total	**: ₹ 22,98,000/-**

11. In light of aforesaid, total compensation payable to Claimants is enhanced from ₹21,51,000/- to ₹22,98,000/-, which shall carry interest @ 9% *per annum*. The enhanced compensation be deposited by Insurer with the Tribunal within four weeks and it be disbursed to Claimants forthwith as per this judgment and in the ratio and manner as indicated in the impugned Award. Statutory deposit, if any, be refunded to Insurer.

12. With aforesaid directions, the above-captioned appeals are disposed of.

(SUNIL GAUR)
JUDGE

JULY 06, 2018
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