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

% **Date of Decision: 16th April, 2018**

\+ MAC.APP. 272/2017

BHARTI AXA GENERAL
INSURANCE COMPANY LTD. ..... Appellant
Through: Ms.Arunima Dwivedi, Ms.Preeti, Advocates.

versus

RISALO DEVI & ORS. ..... Respondents
Through: Mr.Manish Maini, Ms.hreeshika Bhargav, Advocates for respondents no.1 to 8 along with respondents no.1 and 2 in person.

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.16,55,610/- has been awarded to respondents no.1 to 8.

2. The accident dated 04th April, 2014 resulted in the death of Randhir Singh. The deceased was aged 66 years at the time of the accident and was survived by his widow, one son and six married daughters who filed the claim petition before the Claims Tribunal. The deceased was an ex-

serviceman getting a pension of Rs.16,372/- per month and he was doing agricultural activities and after his death, his widow is getting a pension of Rs.11,525/- per month. It was claimed that the deceased was earning Rs.20,000/- per month by doing agricultural work. In the absence of any proof, the Claims Tribunal took Rs.15,221/- as income of the deceased (Minimum wages of Rs.10,374/- and the difference in pension and the family pension i.e. Rs.4,847/- (Rs.16,372/- - Rs.11,525/-). The Claims Tribunal deducted 1/5th towards personal expenses and applied the multiplier of 5 to compute the loss of dependency as Rs.7,30,610/-. The Claims Tribunal awarded Rs.25,000/- towards funeral expenses, Rs.1 lakh towards loss of consortium, Rs.1 lakh towards loss of estate and Rs.7 lakh towards loss of love and affection. The total compensation awarded is Rs.16,55,610/-.

3. Learned counsel for the appellant urged at the time of the hearing that the personal expenses of the deceased be increased from 1/5th to 1/3rd as all the daughters of the deceased were married. It was further submitted that the non-pecuniary compensation be reduced in terms of principles laid down in ***National Insurance Co. Ltd. v. Pranay Sethi***, 2017 SCC OnLine SC 1270. The appellant also seeks reduction in the rate of interest from 10% to 9%.

4. There is merit in the contentions urged by learned counsel for the appellant. The personal expenses of the deceased are reduced from 1/5th to 1/3rd and the non-pecuniary compensation is reduced to Rs.70,000/- (Rs.40,000/- towards loss of consortium, Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses). The rate of interest is reduced from 10% to 9%.

5. Taking the income of the deceased as Rs.15,221/- per month, deducting 1/3rd towards the personal expenses and applying the multiplier of 5 the loss of dependency is computed as Rs.6,08,840/-. Adding Rs.40,000/- towards loss of consortium, Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses, the total compensation is computed as Rs.6,78,840/-.

6. The appeal is allowed and the award amount is reduced from Rs. 16,55,610/- to Rs.6,78,840/- along with interest @ 9% per annum from the date of institution i.e. 20th September, 2014 till realization.

7. The appellant has deposited the entire award amount with the Claims Tribunal in terms of order dated 17th March, 2017.

8. As per the calculation done by the Accounts Officer of this Court, the compensation amount with interest as on today comes to Rs.8,97,026.61 rounded off to Rs.8,97,027/-.

9. The Claims Tribunal is directed to disburse Rs.8,97,027/- to respondents no.1 to 8 in the following manner:

(i) Rs.2 lakh be released to respondent no.1 by transferring the same to her savings bank A/c No.674510110005791 with Bank of India, Jhajjar Branch, Haryana (IFSC Code: BKID0006745)

(ii) Rs.2 lakh be released to respondent no.2 by transferring the same to his savings bank account.

(iii) Rs.50,000/- be released to respondent no.3 by transferring the same to her savings bank account.

(iv) Rs.50,000/- be released to respondent no.4 by transferring the same to her savings bank account.

(v) Rs.50,000/- be released to respondent no.5 by transferring the same to her savings bank account.

(vi) Rs.50,000/- be released to respondent no.6 by transferring the same to her savings bank account.

(vii) Rs.50,000/- be released to respondent no.7 by transferring the same to her savings bank account.

(viii) Rs.50,000/- be released to respondent no.8 by transferring the same to her savings bank account.

10. The balance amount, after releasing Rs.7 lakhs to respondents no.1 to 8 in the aforesaid manner, be kept in FDR in the name of respondent no.1 for the period 1 year with cumulative interest. Respondents no.2 to 8 shall furnish the particulars of their savings bank account to the Claims Tribunal.

11. Respondent no.2 shall appear before the Claims Tribunal and shall submit the particulars of the savings bank accounts of respondent no.1 to 8. Respondent no.1 aged about 70 years is present in Court. The personal appearance of respondent no.1 before Claims Tribunal is exempted.

12. The Bank of India, Jhajjar Branch, Haryana is directed not to issue any cheque book or debit card to respondent no.1 and if the same have already been issued, the bank is directed to cancel the same and make an endorsement on her passbook to this effect. The respondent no.1 shall produce the copy of this order to the Bank of India, whereupon the bank shall make an endorsement on the passbook of respondent no.1 that no cheque book and/or debit card shall be issued to respondent no.1 without the permission of this Court. However, the Bank of India shall permit respondent no.1 to withdraw money from her savings bank account by means of a withdrawal form.

13. The lower court record be sent back to forthwith.

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

APRIL 16, 2018 **J.R.MIDHA, J.**
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