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

+ **FAO 216/2014**

ICICI LOMBARD GENERAL INSURANCE Appellant

Through: **Mr. Sandeep Jha, Advocate.**

versus

AMIT KUMAR & ORS Respondents

Through: **Mr. S. N. Parashar, Advocate for R- 1
& 2.**

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% **03.08.2018**

1. The appellant has challenged the order passed by the Commissioner, Employees' Compensation whereby the compensation of Rs.5,98,680/- has been awarded to Respondent Nos. 1 and 2.
2. On 07th June, 2010, Kishore Kumar was driving Car bearing No. DL-13-C-2816 during the course of his employment on way to Gangotri when the Car turned turtle due to heavy rain and fell in a ditch and thereafter into the river. The accident resulted in death of Kishore Kumar as well as the other four occupants of the car. The deceased was aged about 51 years and survived by his married son and married daughter who claimed compensation.
3. The Commissioner, Employees' Compensation held that the accident arose during the course of employment of the deceased. The Commissioner, Employees' Compensation awarded compensation of Rs. 5,98,680/- along with interest @ 12% per annum to the claimants. Learned counsel for the appellants urged at the time of hearing that Respondent Nos. 1 and 2 were not dependant on the deceased and are therefore, not entitled for compensation.

4. The learned counsel for the Respondent Nos. 1 and 2 submits that Respondent Nos. 1 and 2 were dependent upon the deceased.

5. The appellant deposited Rs.8,86,519/- with the Commissioner, Employees' Compensation and the Commissioner Employees' Compensation disbursed the said amount to respondent No.1 by keeping Rs.4,00,000/- in four FDRs of Rs.1,00,000/- each and the balance amount of Rs.4,86,519/- was received to respondent No.1. Learned counsel for the Respondent Nos. 1 and 2 have produced four FDRs before this Court today.

6. In the peculiar facts and circumstances of this case, this Court is of the view that the compensation amount of Rs.4,86,519/- amount already received by Respondent No.1 and 2, is fair compensation and the balance amount of Rs. 4 Lakhs lying in FDRs be refunded back to appellant. Learned counsel for the Respondent No. 1 and 2 agree to refund Rs. 4 Lakhs and have handed over the four FDRs to learned counsel for the appellant.

7. UCO Bank, Karkardooma Court Branch is directed to discharge the four FDRs as per particulars given hereunder and release the amount to ICICI Lombard General Insurance Company:

- i. FDR No.489649 dated 20th August, 2014 for an amount of Rs.1,00,000/-.
- ii. FDR No.489650 dated 20th August, 2014 for an amount of Rs.1,00,000/-.
- iii. FDR No.489651 dated 20th August, 2014 for an amount of Rs.1,00,000/-.
- iv. FDR No.489652 dated 20th August, 2014 for an amount of Rs.1,00,000/-.

8. The appeal is disposed of in the above terms.

9. It is clarified that this case shall not be treated as a precedent.

10. Copy of this order be given *dasti* to both the counsels for the parties

under the signature of Court Master.

J.R. MIDHA, J.

AUGUST 03, 2018/*Pallavi*