

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

Date of Decision: July 20, 2018

+ **MAC.APP. 179/2013**

SUMITRA DEVI AND ORS.Appellants
Through: Mr. M.K. Sinha and Ms. Binisa
Mohanty, Advocates

Versus

SANJAY KUMAR AND ORS.Respondents
Through: Mr. A.K. Soni, Advocate

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

1. Impugned Award of 9th July, 2012 grants compensation of ₹4,53,620/- with interest @ 9% p.a. to appellants-*Claimants* on account of death of one- *Ram Swaroop @ Kallu*, aged 52 years, in a vehicular accident on 13th October, 2009.
2. The factual background of this case, as noticed in the impugned Award, is as under:-

“Briefly stated the facts giving rise to the petition are that on 13.10.2009 at about 9.26 PM the deceased Ram Swaroop @ Kallu was crossing the road near Birla Mandir, when a Tempo bearing no. DL-1VA-5650 coming from the side of Birla Mandir driven by respondent no. 1 in a rash and negligent manner and at a high speed hit the deceased. It was further stated that due to impact of the accident the deceased fell and sustained

grievous injuries and was taken to Dr. RML hospital where he was declared unfit for statement and was declared dead on the same day.”

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:-

1.) Loss of dependency	:	₹4,33,620/-
2.) Funeral expenses	:	₹5,000/-
3.) Loss of Estate	:	₹5,000/-
4.) Loss of Consortium	:	₹5,000/-
5.) Loss of Love and Affection	:	₹5,000/-

Total : ₹4,53,620/-

4. The challenge to impugned Award by learned counsel for appellants-*Claimants* is on the ground that the Tribunal has erred in not making any addition towards “*future prospects*” and the compensation granted under the “*non-pecuniary heads*” is meager and it needs to be suitably enhanced.

5. On the other hand, learned counsel for *Insurer* submits that compensation and rate of interest awarded by the Tribunal ought to be reduced in light of Supreme Court’s Constitution Bench decision in *National Insurance Company Ltd. Vs. Pranay Sethi & ors.* (2017) 16 SCC 680.

6. Upon hearing and on perusal of impugned Award, evidence on record and the decision cited, I find that the Tribunal has assessed the “*loss of dependency*” while taking minimum wages of a skilled worker and so, in the light of Supreme Court’s decision in *Pranay Sethi (Supra)*, addition towards “*future prospects*” has to be 10% as the deceased was

aged 52 years on day of the incident. In light of the aforesaid, the “*loss of dependency*” is reassessed as under:

$$₹4,380/- \times 12 \times 11 \times \frac{3}{4} \times \frac{110}{100} = ₹4,76,982/-$$

7. The compensation granted by the Tribunal under the “*non pecuniary heads*” needs to be brought in tune with Supreme Court’s decision in *Pranay Sethi (supra)*. Accordingly, compensation granted by the Tribunal under the head of “*loss of love & affection*” is disallowed. However, the compensation granted by the Tribunal under the other “*non pecuniary heads*” is certainly inadequate. The “*funeral expenses*” are increased from ₹5,000/- to ₹15,000/-; compensation under the head “*loss of estate*” is increased from ₹5,000/- to ₹15,000/- and compensation granted under the head “*loss of consortium*” is also increased from ₹5,000/- to ₹40,000/-.

8. In light of the aforesaid, the compensation payable to appellants-*Claimants* is reassessed as under:-

S.No.	Description	Amount
1.	Loss of Dependency	₹4,76,982/-
2.	Loss of Consortium	₹40,000/-
3.	Funeral Expenses	₹15,000/-
4.	Loss of Estate	₹15,000/-
	Total	₹5,46,982/-

9. Consequentially, total compensation payable to appellants-*Claimants* is enhanced from ₹4,53,620/- to ₹5,46,982/-. 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, in the instant case, interest @ 9% *per annum* is maintained. Enhanced compensation alongwith interest be

deposited by respondent-Insurer with the Tribunal within four weeks and it be disbursed forthwith to appellants-*Claimants* in the manner and ratio as spelt out in the impugned Award.

10. With aforesaid directions, this appeal is disposed of.

(SUNIL GAUR)
JUDGE

JULY 20, 2018

v