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

***Decided on:- 11<sup>th</sup> May, 2018***

+ MAC.APP. 635/2016

IFFCO TOKIO GENERAL INSURANCE  
CO LTD

..... Appellant

Through: Ms. Shantha Devi Raman and  
Ms. Akansha Dixit, Advocates

versus

SEEMA DEVI & ORS

..... Respondents

Through: Mr. Mayank Khurana,  
Advocate for R-1 to 4

**CORAM:**

**HON'BLE MR. JUSTICE R.K.GAUBA**

**ORDER (ORAL)**

1. On the accident claim case (suit no.1156/08) of first to fourth respondent (collectively, the claimants) instituted on 21.11.2007, the Motor Accident Claims Tribunal (Tribunal) awarded Rs.6,47,448/- as compensation on account of death of Sh. Om Prakash @ Bantu in a motor vehicular accident that had occurred on 20.10.2007 due to negligent driving of a three-wheeler scooter bearing registration no.DL-1W-0503 insured with the appellant / insurance company. The liability has been fastened against the insurance company though it has been granted recovery rights against the fifth respondent.

2. The insurance company has brought the appeal to question the calculation submitting that dependency loss could not have been

calculated beyond the annual income of Rs.39,000/- as had been stated by the widow (first respondent) and further that deduction on account of personal and living expenses should have been made to the extent of one-third, the non-pecuniary damages awarded also being excessive.

3. The learned counsel for the claimants fairly agrees to the above objections and requests that the award may be granted in light of the ruling of the Constitution Bench of the Supreme Court rendered on 31.10.2017 in *SLP (C) 25590/2014, National Insurance Company Ltd. Vs. Pranay Sethi and Ors.*

4. The loss of dependency, after adding the element of future prospects of increase to the extent of 40% and making a deduction of one-third towards personal and living expenses, on the annual income of Rs.39,000/- p.m. applying the multiplier of 17, is computed as [Rs.39,000/- x 140/100 x 2 /3 x 17] Rs.6,18,800/-.

5. The non-pecuniary damages in the sum of Rs.40,000/- towards loss of consortium and Rs.15,000/- each towards loss to estate and funeral expenses are added. Thus, the total compensation in the case comes to [Rs.6,18,800/- + Rs.40,000/- + Rs.15,000/- + Rs.15,000/-] Rs.6,88,800/-, rounded off to Rs.6,90,000/- (Rupees Six lakh and ninety thousand only).

6. It is clear that instead of being decreased, the compensation has to be increased. Ordered accordingly. Needless to add, it shall carry interest as levied by the tribunal.

7. The apportionment of the compensation as directed by the tribunal, and modified in terms of order dated 20.10.2016 of this court, shall prevail.

8. By order dated 12.08.2016, the insurance company had been directed to deposit the entire awarded amount with up-to-date interest with UCO Bank, Delhi High Court branch. A part thereof has been released in terms of order dated 20.10.2016. The insurance company shall be obliged to satisfy the enhanced award by requisite deposit with the tribunal within 30 days. The Registry shall take steps to have the balance released in terms of the order of the tribunal as modified by this court in the above mentioned order.

9. The statutory deposit shall be refunded after proof is shown of the award having been satisfied.

10. The appeal is disposed of in above terms.

**R.K.GAUBA, J.**

**MAY 11, 2018**

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