$~R-707

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

Decided on: 4th January, 2018

\+ MAC.APP. 4/2013

GANESH KUMAR & ORS. ..... Appellants

Through: Nemo.

versus

CHALAKAN & ANR. ..... Respondents

Through: Nemo.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The appellants were the claimants before the motor accident claims tribunal in accident claim case (Suit No.441/09) instituted on 07.08.2009, seeking compensation on account of death of Rinku Devi, aged 26 years, in a motor vehicular accident that took place on 08.07.2009 due to negligent driving of motor vehicle described as bearing registration No.DL-2FHE-0001 by the first respondent. By judgment dated 24.09.2012, the tribunal accepted the said claim under Section 166 of the Motor Vehicles Act, 1988 and awarded total compensation in the sum of Rs.7,25,504/- with interest @ 7.5% per annum, the said amount inclusive of Rs.6,95,504/- towards loss of dependency, Rs.25,000/- towards loss of love and affection and Rs.5,000/- towards funeral expenses.

2. Feeling aggrieved with the quantum of compensation, the present appeal was filed seeking enhancement. It was put in the list of *'Regulars'* as per order dated 18.04.2016 with direction that it shall be taken up on its own turn. When it is called out for hearing, there is no appearance on behalf of either the appellants or the respondents.

3. File has been perused and the contentions raised in the appeal have been considered.

4. The tribunal found on the basis of evidence that the deceased was earning her livelihood as a maid-servant. Though the claim that her earnings were in the sum of Rs.6,000/- per month could not be substantiated, the tribunal calculated the loss of dependency with the help of minimum wages of unskilled worker (Rs.3934/- per month). It added the element of future prospects of increase to the extent of 30%, and made deduction of one-third towards personal and living expenses, and thereafter applied the multiplier of 17. The only error noted in the calculation is concerning calculation of future prospects of increase which should be to the extent of 40%. [See: *National Insurance Company Ltd. Vs. Pranay Sethi and Ors., SLP (C) 25590/2014,* decided on 31.10.2017].

5. Correcting the error and recalculating the loss of dependency, the compensation under the said head is worked out as (3934 x 140/100 x 2/3 x 12 x 17) Rs.7,49,033.6 rounded off to Rs.7,50,000/- (Rupees Seven Lakhs and Fifty Thousand Only).

6. Having regard to the dispensation in *Pranay Sethi* (supra), the non-pecuniary heads of damages also need to be revised. In lieu thereof, 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 comes to (7,50,000/- + 40,000/- + 15,000/- + 15,000/-) Rs.8,20,000/- (Rupees Eight Lakhs and Twenty Thousand Only).

7. Following the consistent view taken by this Court, the rate of interest is increased to 9% per annum from the date of filing of the petition till realization. [see judgment dated 22.02.2016 in MAC.APP. 165/2011 *Oriental Insurance Co Ltd v. Sangeeta Devi & Ors*.].

8. The award is modified accordingly.

9. The respondents shall be obliged to satisfy the enhanced award by requisite deposit with the tribunal within thirty days, making it available to be released to the claimants in terms of the impugned award.

10. The appeal stands disposed of in above terms.

R.K.GAUBA, J.

JANUARY 04, 2018
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