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

% **Date of Decision: 5th July, 2018**

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\+ MAC.APP. 595/2017

BAJAJ ALLIANZ GENERAL INSURANCE COMPANY LTD. ..... Appellant

Through: Mr. M.P. Shahi, Advocate

versus

KRISHNA & ORS. ..... Respondents

Through: Mr.Rakesh Gupta, Mr.Om Prakash Gupta, Advocates for respondent No.1.
Ms. Shantha Devi Raman, Advocate as amicus curiae with Mr.Arihant Jain, Advocate

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\+ MAC.APP. 169/2018

KRISHNA ..... Appellant

Through: Mr.Rakesh Gupta, Mr.Om Prakash Gupta, Advocates

versus

BAJAJ ALLIANZ GENERAL INSURANCE COMPANY LTD. ..... Respondent

Through: Mr. M.P. Shahi, Advocate
Ms. Shantha Devi Raman, Advocate as amicus curiae with Mr.Arihant Jain, Advocate

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The parties have challenged the award of the Claims Tribunal whereby compensation of Rs.6,40,000/- has been awarded to the claimants.

2. The accident dated 4th August, 2016 resulted in the death of Raj Kumar @ Raju. The deceased was survived by his four brothers and two sisters including a widowed sister. The widowed sister claimed compensation for the death of Raj Kumar.

3. The deceased was aged 40 years at the time of the accident and was working as a tailor. The Claims Tribunal took minimum wages of unskilled workman as Rs.9,568/- per month, deducted 1/3rd towards the personal expenses and applied the multiplier of 15 to compute loss of estate as Rs.5,74,080/-. The Claims Tribunal awarded Rs.50,000/- towards loss of love and affection and Rs.15,000/- towards funeral expenses. The total compensation awarded is Rs.6,40,000/-.

4. Learned counsel for the appellant in MAC.APP.595/2017 urged at the time of the hearing that the claimants are entitled to 15% of the income of the deceased in terms of the principles laid down by this Court in ***Keith Rowe v. Prashant Sagar,*** 2011 ACJ 1734. It is further submitted that the loss of love and affection is no more permissible head in terms of the principles laid down in ***National Insurance Co. Limited v. Pranay Sethi,*** (2017) 13 SCALE 12.

5. Learned counsel for the claimants submits that the future prospects of 25% have not been taken into consideration by the Claims Tribunal in terms of ***Pranay Sethi*** (supra).

6. Ms. Shantha Devi Raman, learned amicus curiae submits that the loss of estate @ 15% of the income of the deceased be awarded to the claimants in terms of the principles laid down in ***Keith Rowe*** (supra).

7. Taking the minimum wages of Rs.9,568/- per month as income of the deceased, adding 25% towards future prospects and applying the multiplier of 15 and taking 15% thereof, the loss to the estate is computed as Rs.3,22,920/-. Rs.15,000/- is awarded towards funeral expenses. The claimant is entitled to total compensation of Rs.3,37,920/- along with interest @ 9% per annum.

8. MAC.APP.595/2017 is allowed and the compensation amount is reduced from Rs.6,40,000/- to Rs.3,37,920/- along with interest @ 9% per annum. MAC.APP.169/2018 is dismissed.

9. The insurance company has deposited the entire award amount with the Registrar General of this Court in terms of order dated 6th December, 2017. As per the calculation done by the Accounts Officer, the claimant is entitled to compensation of Rs.3,86,100/- (Rs.3,86,073.6 rounded off) which includes the interest as on today.

10. The Registrar General is directed to disburse Rs.3,86,100/- to the claimant by instructing UCO Bank, Delhi High Court Branch as under:

(i) Rs.1 lakh be transferred to the savings bank A/c No.32030100006537, with Bank of Baroda, Lajpat Nagar branch, New Delhi (IFSC Code : BARBOLAJPAT) of claimant.

(ii) Rs.2,86,100/- be kept in two FDRs of equal amount for the period 6 months and 1 year respectively with cumulative interest.

(iii) At the time of maturity, the maturity amounts of the said FDRs shall be credited in the individual savings bank account of the claimant mentioned above.

(iv) All the original FDRs shall be retained by UCO Bank, Delhi High Court Branch. However, a statement containing FDR number, FDR amount, date of maturity and maturity amount be furnished to claimant.

(v) No loan or advance or pre-mature discharge shall be permitted without the permission of this Court.

11. The balance amount, after disbursing Rs.3,86,100/- to respondent No.1, be refunded back to the appellant along with interest accrued thereon. The statutory amount be also refunded back to the appellant in MAC.APP.595/2017.

12. This Court appreciates the assistance rendered by learned amicus curiae in this matter.

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

JULY 5, 2018 **J.R.MIDHA, J.**

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