

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

Date of Decision: March 16, 2018

+ **MAC.APP. 475/2015**

SURJEET SINGH & ANR Appellants
Through: Mr. Om Prakash Gupta, Advocate
versus

AJAY KUMAR SINGH & ORS.Respondents
Through: Mr. Parveen Kumar Mehdiratta,
Advocate for respondent No.2-Insurance
Company

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

Received on transfer.

1. Vide impugned Award of 25th March, 2015, compensation of ₹1 lac has been granted to appellants-Claimants on account of death of *Smt. Manjeet Kaur* in a vehicular accident, which took place on 11th March, 2009. The factual background of this case already stands noticed in impugned Award and so, needs no reproduction. Suffice to note that late *Smt. Manjeet Kaur* was aged 69 years on the day of the accident and was an illiterate house-wife. The value of gratuitous services rendered by deceased has been taken into account by *the Motor Accidents Claims Tribunal, Karkardooma Courts, East District, Delhi (hereinafter referred to as the 'learned Tribunal')* while relying upon a decision of a co-ordinate Bench of this Court in *Royal Sundaram Alliance Insurance Co.*

Ltd. v. Manmeet Singh and Others, 2012 SCC OnLine Del 583. However, learned Tribunal has granted lump sum notional compensation of ₹55,000/- on account of gratuitous service rendered by her. In addition, compensation of ₹25,000/- has been granted under the head of 'loss of love and affection'; ₹10,000/- under the head of 'funeral expenses' and again ₹10,000/- under the head of 'loss of consortium'.

2. In this appeal, enhancement of compensation is sought by appellants-Claimants while relying upon Supreme Court's decision in *Lata Wadhwa and Ors. v. State of Bihar and Others.*, (2001) 8 SCC 197 wherein the value of gratuitous service rendered by elderly ladies in the age group of 62-72 years has been assessed at ₹20,000/- per annum.

3. Learned counsel for appellants-Claimants submits that while taking into account the inflation, the value of gratuitous service rendered by deceased ought to be assessed at ₹40,000/- per annum and in view of Supreme Court's decision in *Sarla Verma (Smt.) and others v. Delhi Transport Corporation and Another*, (2009) 6 SCC 121, multiplier of five ought to be applied and so, it is submitted on behalf of appellants that notional compensation of ₹55,000/- ought to be enhanced to ₹2 lacs. It is also submitted that in view of Supreme Court's Constitution Bench decision in *National Insurance Company Ltd. Vs. Pranay Sethi & ors.* 2017 SCC OnLine SC 1270, compensation under the head of 'loss of consortium' deserves to be enhanced from ₹10,000/- to ₹40,000/- and the funeral expenses ought to be enhanced from ₹10,000/- to ₹15,000/-. Thus, it is submitted that quantum of compensation granted by learned Tribunal deserves to be enhanced.

4. On the contrary, learned counsel for respondent seeks to rely upon a decision of this Court in *United India Insurance Co. Ltd. v. Shivani Sharma*, 2017 SCC OnLine Del 12637 and *Royal Sundaram (supra)* to support impugned Award and seeks dismissal of this appeal.

5. Upon hearing and on perusal of impugned Award, evidence on record and the decisions cited, I find that Supreme Court in *Lata Wadhwa (supra)*, has declared that value of gratuitous service rendered by elderly ladies in the age group of 62-72 years has to be assessed at ₹20,000/- *per annum*. While taking into account the inflation aspect, it is deemed appropriate to assess the value of gratuitous service rendered by deceased in the instant case at ₹30,000/- *per annum*. Since the decision in *Lata Wadhwa (supra)* was not relating to a vehicular accident, therefore, 50% towards her personal expenses has to be deducted. In the face of Supreme Court's decision in *Lata Wadhwa (supra)*, reference to decisions in *Shivani Sharma (supra)* and *Royal Sundaram (supra)* is of no consequence. Thus, the entitlement of legal heirs of deceased to compensation is to be computed at ₹15,000/- *per annum*. In view of Supreme Court's decision in *Sarla Verma (supra)*, by adopting multiplier of 5, the notional compensation payable on account of death of deceased is assessed at ₹75,000/-.

6. So far as compensation granted under the non-pecuniary heads is concerned, in view of Supreme Court's decision in *Pranay Sethi (supra)*, compensation granted under the head of 'love and affection' needs to be disallowed, but the compensation granted under the head of 'loss of consortium' is enhanced from ₹10,000/- to ₹40,000/- and 'funeral

expenses ' are enhanced from ₹10,000/- to ₹15,000/-. In view of aforesaid, compensation granted is enhanced from ₹1 lac to ₹1,30,000/-. Respondent-Insurer shall deposit the enhanced compensation with the concerned Tribunal within a period of four weeks from today and upon deposit of the same, it be released forthwith to appellants-Claimants.

7. The enhanced compensation shall carry interest @ 9% *per annum*. Since recovery rights have been already granted to respondent-Insurer, therefore, respondent-Insurer shall also have the right to recover the enhanced compensation from driver and owner of the offending vehicle.

8. Accordingly, the appeal is partly allowed to the extent indicated above.

Copy of this judgment be given *dasti* to appellants-Claimants' counsel.

MARCH 16, 2018

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**(SUNIL GAUR)
JUDGE**