

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

Date of Decision: August 31, 2018

+ **MAC.APP. 625/2017 & CM 25548/2017**

+ **MAC.APP. 627/2017 & CM 25561/2017**

UTTAR PRADESH STATE ROAD TRANSPORT
CORPORATION

..... Appellant

Through: Mr. Shadab Khan, Advocate for
Ms. Garima Prashad, Advocate

Versus

SUDHAKAR & ORS

..... Respondents

Through: Mr. Jatinder Kamra, Advocate for
respondents No.1 to 3

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

1. In the above-captioned appeals, the challenge is to Award of 18th April, 2017 rendered by Motor Accident Claims Tribunal (*henceforth referred to as 'the Tribunal'*), which grants compensation of ₹7,36,472/- with interest @ 10% *per annum*, to legal heirs of deceased-Rajendra Kumar, aged 45 years, and compensation of ₹7,19,672/- with interest @ 10% *per annum*, to legal heirs of deceased-Veerwati, aged 42 years.
2. The factual background of this case, as noticed in the impugned Award, is as under:-

"The facts common to both the petitions are like this.

On 15.08.2015 at 10.30 p.m. Rajender and Smt. Veerwati boarded a bus bearing no. UP-14DT-4749 from Etah to Anand Vihar, Delhi. The driver of the bus was driving the bus in a high speed and in a zigzag manner. They reached at 3.15 a.m near Lampur, PS Sikandrabad, GT Road, Bulandshahar, U.P. The driver hit the bus against a stationary truck as a result they along with other passengers sustained injuries. They were removed to Govt. Hospital, Sikandrabad and thereafter to District Hospital, Bulandshahar and ultimately referred to JPN Trauma Center, New Delhi. On 18.08.2015, Rajender has expired during the course of treatment. The accident has taken place due to the rash and negligent driving of respondent No.1. FIR no. 754/15, PS, Sikandrabad, U.P was registered against respondent no.1/driver of the bus. Respondent no.2 is owner of the bus.”

3. To render the impugned Award, the Tribunal has relied upon evidence of legal heirs of deceased persons and other evidence on record. The break-up of the compensation awarded by the Tribunal to Claimants of deceased-Rajendra Kumar is as under:-

1.	<i>Loss of estate</i>	₹6,61,472/-
2.	<i>Loss of Love & Affection</i>	₹50,000/-
3.	<i>Funeral Expenses</i>	₹25,000/-
Total		₹7,36,472/-

4. The break-up of the compensation awarded by the Tribunal to Claimants of deceased-Veerwati is as under:-

1.	<i>Loss of estate</i>	₹6,44,672/-
2.	<i>Loss of Love & Affection</i>	₹50,000/-
3.	<i>Funeral Expenses</i>	₹25,000/-
Total		₹7,19,672/-

5. The above captioned first appeal pertains to legal heirs of deceased-*Rajendra Kumar*, whereas above-captioned second appeal pertains to legal heirs of deceased-*Veerwati*. Since these two appeals arise out of aforesaid common impugned Award, therefore, with the consent of learned counsel for the parties, these appeals have been heard together and are being decided by this common judgment.

6. To assail the impugned Award, learned counsel for owner of insured vehicle relies upon Supreme Court's Constitution Bench decision in *National Insurance Company Ltd. Vs. Pranay Sethi & ors.* (2017) 16 SCC 680 and submits that the quantum of compensation deserves to be reduced.

7. On the contrary, counsel for respondents-*Claimants* supports the impugned Award and submits that the compensation granted by the Tribunal is just and fair and so, these appeals deserve to be dismissed.

8. Upon hearing and on perusal of impugned Award, evidence on record and the decision cited, I find that in view of Supreme Court's Constitution Bench decision in *Pranay Sethi (supra)*, compensation of ₹50,000/- each granted by the Tribunal to the legal heirs of deceased-*Rajendra Kumar* and deceased-*Veerwati* under the head of 'love and affection' deserves to be disallowed whereas 'funeral expenses' of ₹25,000/- each is reduced to ₹15,000/-. As regards the compensation of ₹6,61,472/- granted to legal heirs of deceased-*Rajendra Kumar* and compensation of ₹6,44,672/- granted to the legal heirs of deceased-*Veerwati* under the head of 'loss of estate', I find that in view of decision

of a Co-ordinate Bench of this Court in *Keith Rowe v. Prashant Sagar and Ors.*, 2011 ACJ 1737 it deserves to be maintained. It is ordered accordingly.

9. In view of the aforesaid, the compensation payable to legal heirs of deceased-*Rajendra Kumar* is reassessed as under:-

1.	<i>Loss of estate</i>	₹6,61,472/-
2.	<i>Funeral Expenses</i>	₹15,000/-
Total		₹6,76,472/-

10. The compensation payable to legal heirs of deceased-*Veerwati* is reassessed as under:-

1.	<i>Loss of estate</i>	₹6,44,672/-
2.	<i>Funeral Expenses</i>	₹15,000/-
Total		₹6,59,672/-

11. Consequentially, the compensation granted by the Tribunal to legal heirs of deceased-*Rajendra Kumar* is reduced from ₹7,36,472/- to ₹6,76,472/- and compensation granted by the Tribunal to legal heirs of deceased-*Veerwati* is reduced from ₹7,19,672/- to ₹6,59,672/-. In view of Supreme Court's Three Judge Bench decision in *Jagdish v. Mohan and Others*, (2018) 4 SCC 571, the interest of 10% *per annum* on the compensation awarded by the Tribunal is also reduced to 9% *per annum*. Accordingly, the modified compensation shall carry interest @ 9% p.a. The modified compensation be released forthwith to respondent-*Claimants* in the ratio and manner as indicated in the impugned Award. Statutory deposit along with excess deposit, if any, be refunded.

12. With aforesaid directions, the above captioned two appeals and the

pending applications are disposed of.

(SUNIL GAUR)
JUDGE

AUGUST 31, 2018

s