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

% **<u>Date of Decision: 09th April, 2018</u>**

\+ MAC.APP. 583/2017 & CM No.24259/2017

16 UNIVERSAL SOMPO GEN. INS. CO. LTD...... Appellant
Through: Mr. Mohammad Mustafa, Adv.

versus

RAJENDRA PAL SINGH & ORS. ..... Respondents
Through: Mr. J.S. Kanwar, Adv. for R1 to R4.

\+ MAC.APP. 967/2017

17 RAJENDRA PAL SINGH & ORS ..... Appellants
Through: Mr. J.S. Kanwar, Adv.

versus

HARENDER SINGH & ORS (UNIVERSAL SOMPO GEN INSURANCE CO LTD) ..Respondents
Through: Mr. Mohammad Mustafa, Adv. for R1.

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

<u>J U D G M E N T</u>

1. The parties have challenged the award of the Claims Tribunal whereby the compensation of Rs.62,24,103/- has been awarded to the claimants. The appellant in MAC.APP.583/2017 is seeking reduction of the award amount whereas the appellants in MAC.APP.967/2017 are seeking enhancement of the award amount.

2. The accident dated 13th September, 2015 resulted in the death of Vijay Singh. The deceased was aged 25 years and was working as a Senior Executive with Jasper Infotech Pvt. Limited. The deceased was survived by his parents, one brother and one sister who claimed compensation before the Claims Tribunal.

3. The Claims Tribunal took the income of the deceased as Rs.3,24,061/-, added 50% towards future prospects, deducted 1/3rd towards personal expenses and applied the multiplier of 18 to compute the loss of dependency as Rs.58,33,098/-. The Claims Tribunal awarded Rs.2,56,005/- towards medical expenses, Rs.1,00,000/- towards loss of love and affection, Rs.10,000/- towards loss of estate and Rs.25,000/- towards funeral expenses. The total compensation awarded is Rs.62,24,103/-.

4. Learned counsel for the appellant in MAC.APP.583/2017 urged at the time of hearing that the personal expenses of the deceased be taken as 50% as the deceased was unmarried. It is further submitted that the Income Tax be deducted from the income of the deceased. It is further submitted that the future prospects be reduced from 50% to 40% and the non-pecuniary compensation be reduced in terms of the principles laid down in ***National Insurance Co. Ltd. v. Pranay Sethi***, 2017 SCC OnLine SC 1270.

5. Learned counsel for the appellant in MAC.APP.967/2017 submits that the deceased has left behind four legal representatives namely parents, one brother and one sister who were dependant on deceased and, therefore, the personal expenses of the deceased be restricted to 1/3rd. It is submitted that the job of the deceased was

permanent and, therefore, the addition of 50% towards future prospects is fair and reasonable.

6. The deceased was aged 25 years at the time of the accident and was survived by his parents, one brother and one sister. The age of the father and mother of the deceased was 60 years and 53 years respectively and the age of the brother and sister of the deceased was 22 years and 20 years respectively. This Court is of the view that the personal expenses of the deceased have to be taken as 50% considering that the deceased was unmarried. The brother and sister aged 22 years and 20 years cannot be said to be dependent upon the deceased. The personal expenses of the deceased are increased from 1/3rd to 1/2nd. The Claims Tribunal has taken the income of deceased as Rs.3,24,061/- on the basis of Ex.PW2/5. However, the Income Tax has not been deducted from the said income. As per the salary slip Ex.PW2/3, Income Tax of Rs.1,624/- was deducted from the income of the deceased. The income of the deceased after deduction of Income Tax is taken as Rs.3,22,467/- (Rs.3,24,061 – Rs.1,624). With respect to the future prospects, the employer of the deceased appeared in the witness box as PW-2 and deposed that the job of the deceased was permanent. In that view of the matter, the addition of future prospects of 50% is in order. The Claims Tribunal has awarded Rs.1,00,000/- towards loss of love and affection which is not permissible head in terms of the judgment of the Supreme Court in ***National Insurance Co. Ltd. v. Pranay Sethi***, 2017 SCC OnLine SC 1270 and is, therefore, set aside. The non-pecuniary compensation is restricted to Rs.15,000/- towards loss of estate and Rs.15,000/-

towards funeral expenses.

7. Taking the income of the deceased as Rs.3,24,061/-, deducting Rs.1,624/- towards Income Tax, adding 50% towards future prospects, deducting 50% towards personal expenses and applying the multiplier of 18, the loss of dependency is computed as Rs.43,52,899.50. Adding Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses, the total compensation is computed as Rs.43,82,899.50.

8. MAC.APP.583/2017 is allowed and the compensation of Rs.62,24,103/- awarded by Claims Tribunal is reduced to Rs.43,82,899.50 along with interest @ 9% per annum from the date of the filing of the DAR i.e. 23rd February, 2016. MAC.APP.967/2017 is dismissed.

9. The appellant has deposited Rs.70,51,312/- with the Claims Tribunal in terms of the order dated 26th July, 2017 out of which 25% amount has been disbursed and the balance amount is lying in fixed deposit with the Claims Tribunal. The Claims Tribunal is directed to send the status report with respect to the amount released and the balance amount kept in the FDR. The copy of the FDR be sent along with the status report.

10. The appellant is directed to file the calculation of the amount liable to be refunded at least three days before the next date of hearing with copy to the respondents No.1 and 2 who shall verify the same.

11. Statutory amount be refunded back in MAC.APP.583/2017.

12. Respondents No.1 and 2 in MAC.APP.583/2017 are present in Court and have produced the passbooks of their individual savings bank accounts No.37265943756 and No.37265380780 with State

Bank of India, Saket Courts Complex Branch, IFSC Code: SBIN0014244. Respondents No.1 and 2 are directed to transfer their above said savings bank accounts to a Branch of State Bank of India near the place of their residence. The concerned bank is directed not to issue any cheque book or debit card to respondent no.1 and no.2. The respondent no.1 and no.2 shall produce the copy of this order to the concerned bank, whereupon the bank shall make an endorsement on the passbooks of respondent no.1 and no.2 that no cheque book and/or debit card shall be issued to respondent no.1 and no.2 without the permission of this Court. However, the concerned bank shall permit respondent no.1 and no.2 to withdraw money from their savings bank accounts by means of a withdrawal form. The original passbooks with necessary endorsement be produced before this Court on the next date of hearing.

13. List for disbursement of the compensation amount on 14th May, 2018 at 02:30 P.M.

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

J.R. MIDHA, J.

APRIL 09, 2018
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