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

% **Date of Decision: 29th May, 2018**

\+ MAC.APP. 1078/2017

BHARTI AXA GENERAL INSURACE CO LTD ..... Appellant
Through: Mr. Ved Vyas Tripathi, Advocate

versus

BIRMATI & ORS ..... Respondents
Through: Mr. O.P. Mannie, Advocate

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

JUDGMENT (ORAL)

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.41,05,000/- has been awarded to respondents No.1 to 4. The appellant seeks reduction of the award amount.

2. The accident dated 09th July, 2012 resulted in the death of Ranvir Singh. The deceased was aged 40 years at the time of the accident and was working as Assistant Sanitary Inspector (ASI) with Municipal Corporation of Delhi and was drawing a salary of Rs.24,521/- per month. The deceased was survived by his widow, two sons and father who claimed compensation before the Claims Tribunal.

3. The Claims Tribunal took the income of the deceased as Rs.24,521/- per month, added 30% towards future prospects, deducted 1/4th towards his personal expenses and applied the multiplier of 13 to compute the loss of dependency as Rs.37,29,609/-. The Claims Tribunal awarded Rs.1,50,000/-

towards loss of love and affection, Rs.1,50,000/- towards consortium, Rs.50,000/- towards loss of estate and Rs.25,000/- towards funeral expenses. The total compensation awarded is Rs. 41,05,000/- (Rs. 41,04,609/- rounded off).

4. Learned counsel for the appellant urged at the time of the hearing that the personal expenses of the deceased be increased from 1/4th to 1/3rd as the two sons were not dependent upon the deceased. It is further submitted that the non-pecuniary compensation be reduced in terms of the principles laid down in ***National Insurance Co. Limited vs. Pranay Sethi and Ors.*** 2017 SCC Online SC 1270.

5. Learned counsel for the claimants submits that the deceased left behind four legal representatives, namely, widow, father and two sons and the appropriate deduction towards the personal expenses in cases where the deceased leaves behind four legal representatives is 1/4th.

6. This Court is of the view that there is no infirmity in the deduction of 1/4th towards personal expenses of the deceased considering that the deceased left behind four legal representatives. However, the non-pecuniary compensation awarded by the Claims Tribunal is liable to be reduced to Rs.70,000/- (Rs.40,000/- towards consortium, Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses) in terms of the principles laid down in ***Pranay Sethi*** (supra).

7. The appeal is partially allowed and the compensation is reduced from Rs.41,05,000/- to Rs.37,99,609/- along with interest @ 9% per annum. The appellant would be entitled to recover the said amount from respondents No.5 and 6 in terms of the award of the Claims Tribunal.

8. The appellant has deposited Rs.35 lakh along with interest @ 9% per

annum in terms of the order dated 08th December, 2017. The appellant is directed to deposit the balance award amount with the Registrar General of this Court within five weeks.

9. With respect to Rs.51,63,027/- deposited by the appellant, Rs.2,63,027/- was released to respondent No.1 in terms of order dated 11th April, 2018 and the balance amount of Rs.49 lakh is lying with the Registrar General of this Court.

10. Respondents No.1 to 3, present in Court, submit that respondent No.4 has expired on 30th April, 2018 and the rights have devolved upon respondents No.1 to 3, who are already on record. Let the death certificate of respondent No.4 be placed on record before the next date of hearing.

11. Respondents No.1 to 3 are present in Court and have produced the passbooks of their savings bank accounts, details of which are as under: -

(i) Birmati (respondent No.1)
S.B. Account No.21360100022787
Bank of Baroda, Badli Branch,
Delhi.
IFSC: BARB0TRDBAD.

(Ii) Kapil Kumar (respondent No.2)
S.B. Account No.21360100022788
Bank of Baroda, Badli Branch,
Delhi.
IFSC: BARB0TRDBAD.

(iii) Parmeet Kumar (respondent No.3)
S.B. Account No.21360100022789
Bank of Baroda, Badli Branch,
Delhi.
IFSC: BARB0TRDBAD.

12. Learned counsel for respondents No.1 to 3 submits that the order dated 11th April, 2018 was produced before Bank of Baroda, but they have

not made any endorsement on the passbook of respondents No.1 to 3.

13. Issue Court notice to Manager, Bank of Baroda, Badli Branch, Delhi to explain why the order dated 11th April, 2018 has not been complied with by making the endorsement on the passbook as directed by this Court.

14. List for disbursement on 03rd July, 2018 at 02:30 p.m.

15. Respondent No.1 shall deliver the copy of this order to the Manager, Bank of Baroda, Badli Branch, Delhi who shall remain present in Court on the next date of hearing.

16. The statutory amount be refunded back to the appellant after the deposit of the enhanced award amount.

17. Copy of this order be given *dasti* to counsels for the parties under signatures of the Court Master.

MAY 29, 2018 **J.R.MIDHA, J.**

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