

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

Date of Decision: August 07, 2018

+ **MAC.APP. 863/2015 & CM 26578/2015**

UNITED INDIA INSURANCE CO LTDAppellant
Through: Mr. Pradeep Gaur, Advocate

versus

LADU RAM & ORS.Respondents
Through: Mr. Kamal Kant Jha and
Mr. Siddharth Jha, Advocates

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

1. Impugned Award of 25th August, 2015 grants compensation of ₹13,91,000/- with interest @ 9% p.a. to respondents-*Claimants* on account of death of one *Assistant Mechanic-Mam Raj*, aged 24 years, who had suffered fatal injuries in a vehicular accident on 15th August, 2014.
2. The factual background of this case, as noticed in the impugned Award, is as under:-

“It is the case of the petitioners that on 15.08.2014 Shri Mam Raj (since deceased) met with a fatal road accident at Sarojini Nagar Bus Depot, New Delhi. He was hit by DTC BUS No. DL 1PC 9424 while he was working on another DTC Bus at Sarojini Nagar Bus Depot. It is averred

that after the accident Mam Raj (since deceased) was taken to Safdarjang Hospital, New Delhi where he was declared brought dead by the doctors and his postmortem was conducted at AIIMS Hospital, New Delhi. It is stated that in respect of the accident FIR No. 455/2014 under sections 279/304A IPC was registered at PS Sarojini Nagar, New Delhi against the driver of the offending DTC Bus.”

3. On the basis of evidence led, impugned Award has been rendered by the Motor Accident Claims Tribunal (*henceforth referred to as “the Tribunal”*) and the breakup of compensation awarded by the Tribunal is as under:-

Loss of dependency	:	₹12,56,000/-
Love and affection	:	₹1,00,000/-
Loss of Estate	:	₹10,000/-
Funeral Expenses	:	₹25,000/-
Total	:	₹13,91,000/-

4. The Tribunal has assessed the “*loss of dependency*” while taking the income of deceased at ₹7,754/- per month and addition of 50% towards “*future prospects*” has been made. 50% has been deducted towards the “*personal expenses*” of deceased and the multiplier applied is of 18.

5. The challenge to impugned Award by learned counsel for appellant-Insurer is on the ground that addition towards “*future prospects*” has to be 40% and not 50%, as granted by the Tribunal and ‘*non-pecuniary damages*’ are required to be modified in light of Supreme Court’s Constitution Bench decision in *National Insurance Company Ltd.*

Vs. Pranay Sethi & ors., (2017) 16 SCC 680.

6. Learned counsel for respondents-*Claimants* supports the impugned Award and submits that the compensation granted by the Tribunal is fair and just and this appeal deserves to be dismissed.

7. Upon hearing and on perusal of impugned Award, evidence on record and the decision cited, I find that the Tribunal has rightly made an addition of 50% towards “*future prospects*” as deceased was in permanent employment and was aged 24 years on the date of the accident.

8. As regards compensation granted under the ‘*non-pecuniary heads*’, I find that in view of Supreme Court’s Constitution Bench decision in *Pranay Sethi (supra)*, it needs to be suitably modified. Accordingly, compensation granted by the Tribunal under the head of ‘*loss of love & affection*’ is disallowed. However, the compensation granted under the head of “*loss of estate*” is increased from ₹10,000/- to ₹15,000/- and the “*funeral expenses*” are reduced from ₹25,000/- to ₹15,000/-.

9. In light of the aforesaid, the compensation payable to respondents-*Claimants* is reassessed as under:-

S.No.	Description	Amount
1.	Loss of Dependency	₹12,56,000/-
2.	Funeral Expenses	₹15,000/-
3.	Loss of Estate	₹15,000/-
Total		₹12,86,000/-

10. Consequentially, the compensation payable to respondents-*Claimants* is reduced from ₹13,91,000/- to ₹12,86,000/-. The re-assessed compensation shall carry interest @ 9% *per annum* and it be disbursed to

the respondents-*Claimants* in the ratio and manner, as indicated in the impugned Award. Statutory deposit alongwith excess amount, if any, be refunded to appellant-*Insurer*.

11. With aforesaid directions, this appeal and the application are disposed of.

(SUNIL GAUR)
JUDGE

AUGUST 07, 2018

v