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

Date of Order: May 09, 2018

\+   **MAC APP 902/2015**

UPSRTC & ORS. ..... Appellants
Through: Mr. Shadab Khan, Advocate

versus

SEEMA & ORS. .....Respondents
Through: Mr. Ankur Chhibber with Mr. Bhanu Gupta, Advocates

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

O R D E R
(ORAL)

1. Appellants are the owner and driver of the bus which was involved in a vehicular accident on 20th May, 2012 and in the said accident, Ramu aged 35 years had died and the Motor Accident Claims Tribunal (hereinafter referred to as 'the Tribunal') has vide impugned Award of 22nd September, 2015 granted compensation of ₹15,82,840/- with interest @ 9% per annum to the respondent-claimants.

2. The factual background of this case as noted in the impugned Award is as under :-

> *"LRs of deceased Ramu have filed the present claim petition under Sec. 166 & 140 of MV Act stating that on 20/5/2012, at about 4:30 AM deceased was going from Delhi to his native village by travelling in offending vehicle bearing no. UP 81 AF 1272 (UP Roadways bus) which was being driven*

by its driver/Respondent No.3 allegedly in a rash & negligent manner and when the said bus reached at Bhartari, Near Fauji Hotel, Aligarh there was a truck which was in a stationary position and the driver of the offending bus without caring hit the truck from its conductor side and ran by scratching with the body of truck. Due to this forceful impact and jerk deceased sustained grievous injuries. He was immediately taken to Medical Hospital, Aligarh and thereafter, he was referred to L.N.J.P. Hospital where he expired during the treatment. The FIR No. 76/12 u/sec 279/337/338/304-A IPC was also registered at P.S. Gabhana in this respect."

3. The Tribunal has relied upon the evidence of widow of the deceased- Ramu, driver of the bus in question and has assessed the income of deceased on minimum wages and while taking the age of deceased to be 35 years and has made an addition of 50% towards future prospects. The multiplier applied is of 16 and 1/3rd has been deducted towards personal expenses. The break-up of the compensation as granted by the Tribunal is as under :-

₹7020/- per month + ₹3510 (50% future prospects) = ₹10,530/-

₹10,530/- X 12X16 (Multiplier) = ₹20,21,760/-

₹20,21,760 – ₹6,73,920 (1/3rd personal expenses) = ₹13,47,840

Love and affection	-	₹ 1,00,000/-
Loss of Consortium	-	₹ 1,00,000/-
Loss of Estate	-	₹ 10,000/-
Funeral expenses	-	₹ 25,000/
Total		₹ 15,82,840/-

4. The challenge to impugned Award by learned counsel for appellant is on the ground that age of deceased was more than 35 years as per

Family Register (mark 'D') and so, the applicable multiplier would be of 15 and not 16. It is also submitted on behalf of appellant that the compensation granted under the *non-pecuniary* heads is on the higher side and in view of the Supreme Court in *National Insurance Company Ltd. Vs. Pranay Sethi & ors.* 2017 SCC OnLine SC 1270, the compensation under these heads needs to be suitably reduced. It is thus submitted by appellant's counsel that in light of Supreme Court decision in *Pranay Sethi (Supra)* addition towards future prospects ought to be 40% and not 50%.

5. Learned counsel for the respondent-Claimants supports the impugned Award and submits that no case for reduction of the quantum of compensation is made out.

6. Upon hearing and on perusal of impugned Award, evidence on record and the decision cited, I find that the income of deceased has been assessed by the Tribunal on minimum wages and so, addition towards future prospects has to be 40% and not 50%. In light of the *Family Register (Mark 'D')*, the age of deceased on the day of the accident was 35 years and so, the multiplier applied by the Tribunal is of 16, which is appropriate. Accordingly, the *'loss of dependency'* is re-assessed as under:-

> *₹7,020/- p.m.+ ₹2,808/- (40% future prospects= ₹9,828/- p.m.*
> *9828 X 12 X 16 = ₹18, 86,976/-*
> *₹18, 86, 976/- 1/3rd* towards *personal expenses* = *₹12,57,984/-* .

7. So far as the compensation granted by the Tribunal under the *non-pecuniary* heads is concerned, it needs to be brought in line with the Constitution bench decision of Supreme Court in *Pranay Sethi (Supra).*

8. Accordingly, the compensation of ₹1 lac granted under the head of '*Love and affection*' is disallowed and the compensation of ₹1 lac granted under the head of '*loss of consortium*' is reduced to ₹40,000/-. The compensation under the head of *'Loss of Estate'* is increased from ₹10,000/- to ₹15,000/-. But the *'Funeral Expenses'* are reduced from ₹25,000/- to ₹15,000/-. Thus, the compensation payable under the *non-pecuniary* heads is reduced from ₹2,35,000/- to ₹ 70,000/-.

9. The total compensation payable to respondent-claimants is accordingly reduced from ₹15,82,840/- to ₹13,27,984/-. The modified compensation shall carry interest @ 9% per annum and it shall be disbursed to the respondent-Claimants in the manner as indicated in the impugned award. Excess deposit, if any, with statutory deposit be refunded to first appellant and the compensation in terms of this judgment be released to the respondent-Claimants forthwith.

10. The modified award be disbursed in the manner indicated in impugned Award and in terms of interim order of 8th February, 2016.

11. With the aforesaid directions, this appeal stands disposed of.

(SUNIL GAUR)
JUDGE

MAY 09, 2018
P