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

% *Decided on: 08.11.2019*

+ MAC.APP. 1175/2014 & CM APPL. 21120/2014

IFFCO TOKIO GENERAL INSURANCE CO LTD Appellant
Through

versus

REENA & ORS Respondents
Through: Mr. S. N. Parashar, Adv.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal impugns the award of compensation dated 10.10.2014 passed by the learned MACT in MACT No. 36/14/13 on two grounds that the compensation for 'loss of future prospects' @ 50% as granted by the learned Tribunal, is erroneous and the same ought to have been, 40% in terms of the *National Insurance Co. Ltd. v. Pranay Sethi & Ors*, (2017) 16 SCC 680. The argument is valid. The deceased was 29 years of age at the time of the motor vehicular accident and was in private employment and not in permanent employment, therefore, 40% towards 'loss of future prospects' shall be granted. The award is modified to that extent. Accordingly, the compensation towards 'loss of dependency' shall be Rs. 38,55,600/- [(Rs. 18,000/- (monthly income)x12 (months)x17(multiplier)x140/100 (loss of future prospects)x75/100 (1/4th deduction towards personal expenses)].

2. The second argument of the learned counsel for the appellant is that no premium was paid by the vehicle owner for issuance of the insurance policy. The policy was issued on 20.04.2013 and the period for insurance was from 01.04.2013 to 31.03.2014. The motor accident occurred on 02.04.2013. At that time the insurer did not know that the premium had been paid; the insurer cancelled the insurance policy and intimated the owner of the vehicle, by letter dated 15.05.2013. The learned counsel for the insurer contends that the agent through whom the insurance policy was issued, has been proceeded against in criminal proceedings. This argument is untenable because the insurance policy clearly records that the premium amount of Rs. 926/- was paid by the insured in cash.

3. Let the aforesaid amount of Rs. 38,55,600/-, along with interest @ 9% from the date of filing of the claim petition till its realization, be deposited before the learned Tribunal, within a period of three weeks from the date of receipt of copy of this order, to be released to the beneficiaries of the Award in terms of the scheme of the disbursement specified therein.

4. The appeal stands disposed-off in the above terms.

5. Since the appellant has partially succeeded in the appeal, the statutory amount, along with interest accrued thereon, be returned to it.

NAJMI WAZIRI, J

NOVEMBER 08, 2019

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