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

\+ **Date of Decision: 26.03.2019**

% **MAC.APP. 1079/2018**

SUNITA & ORS ..... Appellants
Through Ms. Harsh Lata, Advocate.

versus

ARUN SINGH & ORS (THE ORIENTAL INSURANCE COMPANY LTD) ..... Respondents
Through Mr. Pradeep Gaur, Advocate for R-3.

CORAM:
HON'BLE MR. JUSTICE A.K. CHAWLA

J U D G M E N T

A.K. CHAWLA, J. (ORAL)

1. By the instant appeal, the appellants, who are the widow, mother and son of the deceased Shri Chand, who died on account of a motor accident involving a bus bearing registration No. DL 1PC 5038, in short the offending vehicle, are aggrieved of the quantum of compensation awarded by the Tribunal under the impugned judgment/Award dated 09.08.2018.

2. A total compensation of Rs.5,74,000/- has come to be awarded by the Tribunal under the different heads, as follows:-

1.	Loss of dependency/Contribution to family:	Rs.5,03,412/-
2.	Loss of Estate:	Rs. 15,000/-
3.	Loss of consortium:	Rs. 40,000/-
4.	Funeral Charges:	Rs. 15,000/-
5.	Medical Bills:	Rs. 15,000/-
	Total=	Rs. 5,73,412/- rounded off Rs.5,74,000/-

3. During the course of hearing, learned counsel for the appellants submits that she has instructions to state that the appeal only as regards the compensation awarded under the head 'loss of dependency/contribution to family', which is assessed having made deduction towards the personal expenses to the extent of one half (50%), is pressed.

4. The deceased was aged about 63 years of age at the time of the incident and a retired Officer of RBI. Undisputedly, his spouse-the appellant No.1; his mother-appellant No.2; and his son-the appellant No.3, who was aged about 24 years and studying, survived him. Nothing comes to be pointed out for their being employed in any manner and thus, being not dependant upon the deceased. It is thus clear that all the claimants/the appellants were dependent on the deceased and therefore, the deduction to the extent of 50% towards the personal expenses of the deceased does not appear reasonable. On this aspect of deduction, Mr. Gaur, learned counsel

for the insurer-The Oriental Insurance Company Ltd. is at pains to justify the deduction to such an extent. Least to say, the widow and the mother would be senior citizens, and, possibly, having their own medical concerns. Keeping in view the totality of facts and circumstances, it can be taken that the personal expenses of the deceased would not exceed 1/3rd of his income. The impugned Award to that extent therefore, invites interference.

5. In view of the foregoing, the impugned Award is modified to the extent that the compensation awarded under the head of loss of dependency shall be assessed with the deduction from income towards personal expenses of the deceased at 1/3rd instead of 50% and the amounts so calculated shall be apportioned in consonance with the terms of the impugned Award.

At this stage, both the learned counsel for the parties concede that with such modification the quantum of loss of dependency shall enhance to Rs.6,71,244/- instead of Rs.5,03,412/-. The impugned Award stands modified to that effect. The enhanced compensation shall be deposited by the insurer-The Oriental Insurance Company Ltd. with the Tribunal within six weeks from today, failing which, it shall attract an interest @ 12% p.a. from today till the deposit. Impugned Award stands modified accordingly.

6. The appeal stands disposed of.

A.K.CHAWLA, J.

MARCH 26, 2019
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