

\$~27

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

%

Date of Decision: 06th February, 2020

+ MAC.APP. 373/2013

THE NEW INDIA ASSURANCE CO LTD Appellant
Through: Mr. Pankaj Seth, Advocate

versus

SMT SAHANA AND ORS Respondents
Through:

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

J U D G M E N T (O R A L)

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.11,06,185/- has been awarded to respondents No.1 and 2.
2. The accident dated 02nd December 2012 resulted in the death of Sharafat Ali. The deceased was aged 45 years at the time of the accident and was survived by his widow and minor son who claimed compensation. The deceased was a tuition teacher at the time of the accident.
3. The Claims Tribunal took the minimum wages of Rs.7,254/- as income of the deceased, added 30% towards future prospects, deducted 1/3rd towards his personal expenses and applied the multiplier of 14 to compute the loss of dependency as Rs.10,56,182.4. The Claims Tribunal awarded Rs.10,000/- towards loss of consortium, Rs.10,000/- towards loss to estate,

Rs.25,000/- towards loss of love and affection and Rs.5,000/- towards funeral expenses. Total compensation awarded is Rs.11,06,185/- (Rs.11,06,182.4 rounded of).

4. Learned counsel for the appellant urged at the time of the hearing that the deceased was negligent in crossing the road and therefore, the compensation amount be reduced on account of the contributory negligence. With respect to the computation of compensation, it is submitted that the future prospects be reduced from 30% to 25%.

5. This Court is satisfied that the driver of the offending vehicle was negligent and he hit the deceased who was crossing the road at the time of the accident. The police chargesheeted the driver of the offending vehicle under Sections 279/337 IPC. This Court is also satisfied that the compensation awarded to respondents No.1 and 2 is just, fair and reasonable and does not warrant any interference. The appeal is dismissed.

6. The appellant has deposited the entire award amount with the Registrar General of this Court in terms of order dated 26th April, 2013.

7. List for disbursement of the balance award amount on 24th April, 2020.

8. Respondents No.1 and 2 shall remain present in Court on the next date of hearing along with the passbook of their savings bank accounts near the place of their residence as well as PAN card and Aadhaar card. The concerned banks of respondents No.1 and 2 are directed not to issue any cheque book or debit card to respondents No.1 and 2 and if the same have already been issued, the banks are directed to cancel the same and make an endorsement on their passbooks to this effect. Respondents No.1 and 2 shall produce the copy of this order to the concerned bank, whereupon the bank

shall make an endorsement on the passbook of respondents No.1 and 2 that no cheque book and/or debit card shall be issued to respondents No.1 and 2 without the permission of this Court. However, the concerned bank shall permit respondents No.1 and 2 to withdraw money from their savings bank account by means of a withdrawal form. Respondents No.1 and 2 shall produce the original passbooks of their individual savings bank account with the necessary endorsement on the next date of hearing.

9. Copy of this judgment be sent to respondents No.1 and 2.

10. Copy of this judgment be given *dasti* to counsel for the appellant under the signature of the Court Master.

FEBRUARY 06, 2020
dk

J.R. MIDHA, J.

सत्यमेव जयते