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

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Date of Decision: 05th February, 2020

+ MAC.APP. 674/2017 & CM Appl. 27617/2017

THE NEW INDIA ASSURANCE CO LTD Appellant

Through: Mr. Anshum Jain and Mr. Amol
Sinha, Advocates

versus

NEELAM & ORS Respondents

Through: Ms. Anita Gupta, Mr. Raghav
Narayan, Ms. Pallavi Dubey and Mr.
Madhav Narayan, Advocates for R-1
to R-4

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 the compensation of Rs.43,00,000/- has been awarded to respondents No.1 to 4.
2. The accident dated 25th July, 2013 resulted in the death of Surender Singh. The deceased was aged 36 years at the time of the accident and was survived by his widow, one daughter and two minor sons who claimed compensation. The deceased was self-employed as owner-cum-driver of a Eicher Canter vehicle. It was claimed that the deceased was earning Rs.35,000/- per month.
3. The Claims Tribunal took the income of the deceased as Rs.30,000/- per month; 1/4th was deducted towards personal expenses and multiplier of 15 was applied to compute the loss of dependency as Rs.40,50,000/-. The Claims Tribunal awarded Rs.1,00,000/- towards loss of love and affection,

Rs.1,00,000/- towards loss of consortium, Rs.25,000/- towards loss to estate and Rs.25,000/- towards the funeral expenses. Total compensation awarded is Rs.43,00,000/-.

4. Learned counsel for the appellant urged at the time of the hearing that the income of the deceased has not been proved and therefore, minimum wages be taken into consideration for computing the compensation.

5. Learned counsel for respondents No. 1 to 4 urged at the time of the hearing that the income of the deceased has been validly proved before the Claims Tribunal. It is submitted that the deceased was the owner of Eicher Canter vehicle and he was himself driving it at the time of the accident. It is submitted that respondent No.1 came in the witness box as PW-1 and deposed that her husband was the owner of the Eicher Canter vehicle. PW-1 placed on record the copies of the statement of bank account of the deceased and the invoices raised by the deceased. The Assistant Manager of M/s Flexituff International Ltd. which used to hire the services of the deceased, appeared in the witness box as PW-3 and proved the account statement of the deceased for the financial years 2012-13 and 2013-14 as Ex.PW-3/B (colly). The respondents have placed on record the computation of the monthly deposit in the bank account of the deceased.

6. This Court is satisfied that respondents No.1 to 4 have proved the occupation as well as the income of the deceased. The statement of bank account of deceased reflects that the average deposits in the bank account of the deceased during the period February to July, 2013 was Rs.85,365.50 per month. The invoices raised by the deceased on the various customers have been placed on record. PW-3 has also placed on record the statement of the bank account that the deceased for the period 2012-13 and 2013-14. The

finding of the Claims Tribunal with respect to the income of the deceased as Rs.30,000/- per month is upheld.

7. The appeal is dismissed. Pending application is also disposed of.

8. The statutory amount be refunded back to the appellant within four weeks.

9. The appellant has deposited the entire award amount with the Claims Tribunal in terms of the order dated 04th August, 2017 out of which 30% amount has been released to the claimants and the balance amount is lying with the Claims Tribunal.

10. The Claims Tribunal is directed to disburse the balance amount to respondents No.1 to 4. However, before disbursement, the Claims Tribunal shall ensure that the savings bank account of the respondents no.1 to 4 is near the place of their residence and the concerned bank has not issued any cheque book or debit card to the respondents no.1 to 4. The respondents no.1 to 4 shall produce the passbook of their savings bank account with the necessary endorsement to the Claims Tribunal at the time of the disbursement.

11. Copy of this judgment be given *dasti* to counsel for the parties under signatures of Court Master.

J.R. MIDHA, J.

FEBRUARY 05, 2020

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