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

% **Date of Decision: 11th February, 2020**

\+ MAC.APP. 51/2018

PREM LATA (WIFE OF DECEASED) & ORS ..... Appellants
Through: Mr. D. V. Goyal, Advocate for appellants

versus

SIYA RAM & ORS & (IFFCO TOKYO GENERAL INSURANCE C LTD) ..... Respondents
Through: Mr. Sameer Nandwani and Mr. Abhay Singh Bhadoria, Advocates for R-3

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

J U D G M E N T (ORAL)

1. The appellants have challenged the award of the Claims Tribunal whereby compensation of Rs.15,06,000/- has been awarded to the appellants. The appellants seek enhancement of the awarded amount.

2. The accident dated 11th September, 2012 resulted in the death of Hari Niwas aged about 34 years. The deceased was survived by his mother, widow, daughter and son who claimed compensation. The mother of the deceased died during the pendency of Claim Petition. The deceased was working as a helper and also owned a Tata Tempo from which he was getting additional income.

3. The Claims Tribunal took the income of the deceased as Rs.9,850/- (salary of Rs.4,850/- + Rs.5,000/- as earnings from part time business); 1/3rd

was deducted towards personal expenses and the multiplier of 16 was applied to compute the loss of dependency as Rs.12,60,800 /-. The Claims Tribunal awarded Rs.1,00,000/- towards loss of love and affection; Rs.1,00,000/- towards loss of consortium; Rs.20,000/- towards loss of estate; and Rs.25,000/- towards funeral expenses. Total compensation awarded is Rs.15,06,000/-(Rs.15,05,800/- rounded off).

4. Learned counsel for the appellants urged at the time of the hearing that minimum wages of Rs.8,528/- (for a matriculate) be taken as income of the deceased; no future prospects have been awarded, 40% be added towards future prospects; the personal expenses be reduced from 1/3rd to 1/4th considering the deceased left behind four legal representatives namely widow, daughter, mother and son; the compensation for loss of love and affection be enhanced to Rs.50,000/- per claimant and compensation for loss of consortium be enhanced to Rs.40,000/- per claimant.

5. Learned counsel for respondent No.3 urged at the time of the hearing that the compensation awarded by the Claims Tribunal is fair and reasonable. It is further submitted that the compensation for loss of estate and funeral expenses be reduced to Rs.15,000/- each.

6. There is merit in the contention urged by learned counsel for appellants. The deceased was a matriculate and minimum wages of Rs.8,528/- are taken into consideration instead of Rs.4,850/-. The income of the deceased is taken as Rs.13,528/- (minimum wages of Rs.8,528/- + income of Rs.5,000/- as earnings from part time business). The appellants are entitled to future prospects of 40%.

7. The deceased left behind four legal representatives at the time of accident, including the mother of the deceased and therefore, the personal

expenses are reduced from $1/3^{rd}$ to $1/4^{th}$. The claimants are entitled to Rs.50,000/- each towards loss of love and affection and Rs.40,000/- each towards loss of consortium. The compensation for loss of estate and funeral expenses are reduced to Rs.15,000/- each.

8. Taking the income of the deceased as Rs.13,528/- per month, adding 40% towards future prospects, deducting $1/4^{th}$ towards personal expenses and applying the multiplier of 16, the loss of dependency is computed as Rs.27,28,000/- (Rs. 27,27,244.8 rounded off). Adding Rs.50,000/- for each claimant towards loss of love and affection i.e. (Rs.1,50,000/-), Rs.40,000/- for each claimant towards loss of consortium i.e. (Rs.1,20,000/-), Rs.15,000/- towards loss of estate and Rs.15,000/- towards loss of funeral expenses. Total compensation is computed as Rs.30,28,000/-.

9. The appeal is allowed and compensation awarded by the Claims Tribunal is enhanced from Rs.15,06,000/- to Rs.30,28,000/- along with interest at the rate of 9% per annum from the date of institution.

10. Respondent No.3 is directed to deposit the enhanced award amount with the Registrar General of this Court within four weeks. Upon the deposit of the aforesaid amount, respondent No.3 shall be entitled to recovery rights against respondent No.1 and 2 in terms of the award.

11. List for disbursement on 17th April, 2020.

12. The appellants shall remain present in Court on the next date of hearing along with their passbooks of their savings bank accounts near the place of their residence as well as PAN card and Aadhaar card. The concerned banks of appellants are directed not to issue any cheque book or debit card to appellants and if the same have already been issued, the banks are directed to cancel the same and make an endorsement on their passbook

to this effect. The appellants shall produce the copy of this order to the concerned banks, whereupon the banks shall make an endorsement on the passbooks of the appellants that no cheque book and/or debit card shall be issued to the appellants without the permission of this Court.

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

J.R. MIDHA, J.

FEBRUARY 11, 2020
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