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

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Judgment delivered on: 09.02.2021

+ MAC.APP.70/2021 & CM APPL.4690/2021 & 4691/2021

CHOLAMANDALAM MS GENERAL INSURANCE CO.LTD

..... Petitioner

versus

SMT. ANITA & ORS.

.....Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Pankaj Gupta, Advocate.

For the Respondent: Mr. Anand V.Khatri, Advocate for R-1 to 5.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. The hearing was conducted through video conferencing.
2. Appellant impugns award dated 10.09.2020 (as rectified by award dated 28.09.2020) whereby the claim petition filed by respondents Nos.1 to 5 has been allowed and compensation awarded.
3. Learned counsel appearing for the appellant contends that the only issue arising in the present appeal is with regard to the salary of the deceased.
4. Learned counsel submits that the deceased on the date of the

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to HMJ Sanjeev Sachdeva.

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accident was drawing a salary of Rs.33,060/- as is evident from his pay slip for the month of December, 2012 which is annexed as Annexure A-4. Learned counsel submits that the Tribunal has relied on the testimony of a witness who had exhibited Form 16A wherein the salary for 9 months was shown as Rs. 40,723/- per month.

5. Learned counsel submits that the Tribunal has erred in taking the salary as Rs. 40,723/- per month whereas the salary was Rs. 33,060/- per month.

6. Issue notice. Notice is accepted by learned counsel appearing for respondent Nos.1 to 5. Since respondent Nos.6 & 7 are the driver and owner respectively and no relief is claimed against them, service of respondent Nos.6 & 7 is discharged.

7. Learned counsel for the respondent concedes that the last drawn salary of the deceased was Rs. 33,060/- per month as is evident from the pay slip. Learned counsel submits that he has no objection in case the award is modified by taking the salary of the deceased as Rs. 33,060/- per month instead of Rs. 40,723/- per month.

8. In view of the above, the appeal is allowed to the said limited extent. Salary of the deceased is taken as Rs. 33,060/- per month instead of Rs. 40,723/- per month. The remaining award is accordingly upheld.

9. In view of the above, matter is remitted to the Tribunal for the limited purpose of computing the compensation by taking the salary

as Rs.33,060/- per month instead of Rs. 40,723/-.

10. Parties shall appear before the Tribunal on 24.02.2021. Tribunal shall compute the amount within a maximum period of two weeks from the said date. On re-computation of the amount, appellant shall forthwith deposit the recomputed amount with the Tribunal and Tribunal shall disburse the amount to the claimants in terms of the scheme of disbursal as provided by the award.

11. The statutory deposit made by the appellant be released to the appellant.

12. The appeal is allowed in the above terms.

13. Copy of the Order be uploaded on the High Court website and be also forwarded to learned counsels through email.

SANJEEV SACHDEVA, J.

FEBRUARY 09, 2021

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