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

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Date of Decision: 18th June, 2021

+ **MAC.APP. 135/2020 & CM APPL. 8821/2020**

UNITED LINDIA INSURANCE CO LTD. Appellant
Through: Mr. Animesh Sinha, Advocate

versus

SHAKUNTALA & ORS Respondents
Through: Mr. Nitin Garg, Advocate

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

J U D G M E N T

1. The petitioner has challenged the award dated 13th November, 2019 of the Claims Tribunal whereby compensation of Rs.20,24,400/- has been awarded to the claimants/respondents No.1 and 2.
2. The accident dated 21st October, 2016 resulted in the death of Arjun. The deceased was aged 20 years at the time of accident and was survived by his parents who claimed compensation. The deceased was a vegetable seller and according to the respondents No. 1 and 2, the deceased was earning Rs.12,000/- per month.
3. The Claims Tribunal took the income of the deceased as Rs.12,000/- per month, added 40% towards future prospects, deducted 50% towards personal expenses and applied the multiplier of 18 to compute the loss of dependency as Rs.18,14,400/-. The

Claims Tribunal awarded Rs.1,00,000/- (Rs.50,000/- each) towards loss of love and affection, Rs.80,000/- (Rs.40,000/- each) towards loss of consortium, Rs.15,000/- towards loss to the estate and Rs.15,000/- towards funeral expenses. Total compensation awarded is Rs.20,24,400/-.

4. Learned counsel for the appellant urged at the time of the hearing that minimum wages of Rs.6,814.81 as applicable in U.P. at the relevant time be taken into consideration to compute the compensation as the deceased was resident of U.P. Learned counsel for respondents No.1 and 2 urged at the time of hearing that the deceased was working at Delhi and therefore, the minimum wages of Rs.9,724/- per month of Delhi be taken into consideration.

5. This Court is of the view that in the absence of any documentary proof of income with respect to the occupation and income of the deceased, the Claims Tribunal ought to have taken the minimum wages of Delhi as the income of the deceased. In the present case, the minimum wages of Delhi at the relevant time were Rs.9,724/- per month which is taken as the income of the deceased instead of Rs.12,000/- per month taken by the Claims Tribunal.

6. Taking the income of the deceased as Rs.9,724/- per month, adding 40% towards future prospects, deducting 50% towards the personal expenses and applying the multiplier of 18, the loss of dependency is computed as Rs.14,71,000/- (Rs.14,70,268.80 rounded off) Adding the non-pecuniary compensation as awarded by the Claims Tribunal, the total compensation is computed as Rs.16,81,000/-.

7. The appeal is allowed and the compensation amount awarded by the Claims Tribunal is reduced from Rs.20,24,400/- to Rs.16,81,000/- along with interest @ 9% p.a. from the date of filing of DAR i.e. 09th January, 2017. Pending application is disposed of.

8. Learned counsel for the appellant submits that the appellant has deposited Rs.21,24,793/- in compliance of this Court order dated 04th March, 2020.

9. According to the calculation by the Accounts Officer of this Court, the compensation amount of Rs.16,81,000/- along with interest @ 9% per annum upto the date of the deposit is computed as Rs.22,41,169.61. As such, the balance amount of Rs.1,16,376.91 is liable to be deposited by the appellant. The appellant is therefore directed to deposit Rs.1,17,000/- (Rs.1,16,376.91 rounded of) with DSLSA within four weeks.

10. The details passbooks of savings bank accounts of respondents No.1 and 2 along with necessary endorsement from the Bank are in the Lower Court Record at page numbers (*handwritten*) 357 to 387. The particulars of the bank accounts of respondents No.1 and 2 are as under: -

- (i) Shakuntala @ Shakuntla (Respondent No. 1)
A/c No. 23540100025917
Bank- Bank of Baroda, Soodanpur, Distt. Bareilly
Branch (Address: Soodanpur , Vill & Post Karghena ,
Distt. Bareilly , Uttar Pradesh - 243001)
IFSC Code - BARB0SOODAN
- (ii) Pappu (Respondent No.2)
A/c No.23540100025914

Bank- Bank of Baroda, Soodanpur, Distt. Bareilly
Branch (Address: Soodanpur , Vill & Post Karghena ,
Distt. Bareilly , Uttar Pradesh - 243001)
IFSC Code - BARB0SOODAN

11. The Registrar General of this Court is directed to transfer the FDR of Rs.21,24,793/- along with interest to DSLSA within three weeks whereupon DSLSA shall disburse the total amount to respondents No.1 and 2 in terms of the principles laid down in *Rajesh Tyagi v. Jaibir Singh*, dated 08th January, 2021, MANU/DE/0051/2021.

12. List for reporting compliance with respect to deposit of Rs.1,17,000/- before Joint Registrar on 06th August, 2021.

13. The statutory amount be refunded back to the appellant after the deposit of the balance amount.

JUNE 18, 2021
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J.R. MIDHA, J.