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

% **Date of Decision: 24th June, 2021**

\+ MAC.APP. 851/2018

THE NEW INDIA ASSURANCE CO. LTD. ..... Appellant
Through: Mr. D. Rajeshwar Rao and Mr. Chirag Mittal, Advocates

versus

MADAN LAL BATRA & ORS. ..... Respondents
Through: Mr. Akshay Kumar, 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 02nd July, 2018 of the Claims Tribunal whereby compensation of Rs.42,39,000/- has been awarded to respondent No.1.

2. The accident dated 31st August, 2005 resulted in the death of Lalit Batra. The deceased was hit by an auto rickshaw while crossing the road. The deceased was aged 28 years at the time of accident and was survived by his father who claimed compensation. The deceased was working as an Executive with DSL Software Ltd., Bangalore at a monthly salary of Rs.35,152/- (Annual Rs.4,21,824/-).

3. The Claims Tribunal took the income of the deceased as Rs.3,53,617/- per annum after deducting Income Tax, added 40% towards future prospects, deducted 50% towards personal expenses

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and applied the multiplier of 17 to compute the loss of dependency as Rs.42,08,044/-. The Claims Tribunal awarded Rs.15,000/- towards loss to estate and Rs.15,000/- towards funeral expenses. Total compensation awarded is Rs.42,39,000/- along with interest at the rate of 9% per annum from the date of filing of claim petition i.e. 05th June, 2010 (excluding the period between 16th November, 2017 to 08th May, 2018).

4. Learned counsel for the appellant urged two grounds at the time of the hearing of the appeal (i) the negligence of the driver of the offending vehicle has not been proved before the Claims Tribunal and (ii) the income of the deceased has not been duly proved by respondent No.1.

5. Learned counsel for the respondent No.1 urged at the time of the hearing that the negligence of the driver of the offending vehicle as well as the income of the deceased have been validly proved before the Claims Tribunal.

6. With respect to the negligence of the offending vehicle, the Claims Tribunal referred to and relied upon the statement of PW-3, M. Ronald who deposed that he witnessed the accident dated 31st August, 2005. PW-3 deposed that late Lalit Batra was hit by the speeding auto rickshaw which was being driven in a rash manner. PW-3 further deposed he joined the investigation of the criminal case and disclosed the registration number KA-03-B-4898 of offending auto rickshaw to the police. In his cross-examination, he stated that he was never summoned as a witness by the Court in the Criminal Case. He further deposed that the deceased was working as

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an Executive in his company. PW-3 was cross examined at length and he categorically denied that the accident occurred due to the rash and negligence of Lalit Batra.

7. The appellant is relying on the judgment of the criminal case in which the driver of the auto rickshaw has been acquitted. The Claims Tribunal observed that the acquittal of the driver in the criminal case is *ipso-facto* not sufficient to hold that there was no rashness or negligence on the part of the driver of the auto rickshaw. There is no infirmity in the finding of the Claims Tribunal.

8. This Court is satisfied that the rashness and negligence of the driver of the auto rickshaw has been validly proved before the Claims Tribunal. The finding of the Claims Tribunal with respect to the rash and negligent driving of the auto rickshaw is upheld.

9. With respect to the income of the deceased, the Claims Tribunal relied upon the testimony of PW-5, Assistant Manger of Standard Chartered Bank who deposed that the deceased had taken housing loan of Rs.11,00,000/- form the bank against a Salary Certificate according to which the salary of the deceased was Rs.35,152/- per month in July, 2004. This Court is satisfied that the income of the deceased has been duly proved before the Claims Tribunal.

10. This Court is satisfied that the compensation awarded by the Claims Tribunal is just, fair and reasonable and does not warrant any interference. The appeal is therefore dismissed.

11. Vide order dated 24th September, 2018, this Court directed the appellant to deposit the entire awarded amount with interest with the

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Registrar General of this Court. In compliance of the order dated 24th September, 2018, the appellant deposited Rs.66,45,544/- with the Registrar General of this Court out of which Rs.30,00,000/- has been disbursed to respondent No.1 on 13th March, 2020 and the balance amount is lying with the Registrar General of this Court.

12. The Registrar General is directed to release the balance amount along with interest thereon to respondent No.1 by transferring the same to his savings bank account No.52320100001852 with Bank of Baroda, Moti Nagar Branch, New Delhi, IFSC Code: BARB0MOTINA within four weeks.

13. Learned counsel for respondent No.1 submits that the appellant has not deposited the entire award amount along with up to date interest. The appellant is directed to file the computation of the amount and interest on affidavit within four weeks. If respondent No.1 is not satisfied with the computation of the appellant, respondent No.1 shall file the response thereto on affidavit within two weeks thereafter.

14. The Accounts Officer of this Court shall submit its report with respect to the computation of both the parties. The Accounts Officer shall submit a report whether the appellant is liable to deposit any further amount in terms of the award. The copy of the computation of the Accounts Officer be furnished to both the parties and if any shortfall is determined by the Accounts Officer, the appellant shall deposit the amount with the Registrar General within two weeks of the report of the Accounts Officer. Upon the deposit of the balance amount, the Registrar General shall release the same to the

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Respondent No.1 by transferring the same to his savings bank account.

15. List before Joint Registrar for reporting compliance with respect to para 12 of this judgment and the deposit of the balance amount, if any, on 03rd August, 2021.

J.R. MIDHA, J.

JUNE 24, 2021
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HIGH COURT OF DELHI
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