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

Date of decision: 05.10.2023

\+ **MAC.APP. 232/2020 & CM APPL. 28957/2020**

ORIENTAL INSURANCE COMPANY LIMITED ..... Appellant
Through: Mr.Abhishek Gola and Mr.Anshul Kumar, Advs. (through VC)

versus

SMT KANCHAPATI DEVI & ORS. ..... Respondents
Through: Ms.Pallavi Awasthi, Adv. for R-8&9.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. This appeal has been filed challenging the Award dated 07.07.2020 (hereinafter referred to as 'Impugned Award') passed by the learned Motor Accidents Claims Tribunal, South-District, Saket Courts, New Delhi (hereinafter referred to as the 'Tribunal') in Petition No.162/2017 titled as ***Smt. Kanchapati Devi & Ors. v. Sh. Deepak Gupta & Ors.***.

2. This Court by its order dated 12.11.2020, had issued notice of appeal only on a limited aspect of the challenge of the appellant on the future prospects being awarded in favour of the claimants, that is the respondent nos. 1 to 7 herein, at the rate of 30% instead of 25%.

3. In spite of service of notice, none has been appearing for the respondent nos.1 to 7. They are accordingly proceeded *ex parte.*

4. The learned counsel for the appellant submits that the learned Tribunal has erred in awarding compensation by taking the future prospects as 30% in spite of coming to the conclusion that the deceased was working as a driver of a TSR. He submits that in terms of the judgment of the Supreme Court in ***National Insurance Company Limited v. Pranay Sethi and Others***, (2017) 16 SCC 680, the future prospects at the rate of only 25% could have been awarded.

5. I find merit in the submission made.

6. In ***Pranay Sethi*** (Supra), the Supreme Court has held as under:

> *"59.3. While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.*
> *59.4. In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component."*

7. As the deceased was aged 46 years at the time of his accident and as per the claimants, was working as a driver of a TSR, future prospects at the rate of only 25% could have been taken into account while determining the compensation payable to the claimants towards loss of dependency. The award shall stand modified to this extent.

8. By the order dated 12.11.2020 of this Court, it had been directed as under:

> *"6. After computing the "loss of future prospects" @25% the entire awarded amount, alongwith interest accrued thereon, shall be deposited before the learned Tribunal within three weeks from today, to be released to the beneficiaries of the Award in terms of the scheme of disbursement specified therein."*

9. The learned counsel for the appellant submits that the above order has been duly complied with.

10. In view of the above, the deposited amount shall continue to be released in favour of the respondent nos.1 to 7, in accordance with the schedule of disbursal as stipulated by the Impugned Award.

11. The appeal and the pending application are disposed of in the above terms. There shall be no order as to costs.

12. The statutory amount deposited by the appellant be released in favour of the appellant alongwith the interest accrued thereon.

NAVIN CHAWLA, J

OCTOBER 5, 2023/ns/am