



\$~8 & 9

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 18.09.2023

+ **MAC.APP. 797/2017 & CM APPL. 32256/2017, 32257/2017**
 THE ORIENTAL INSURANCE CO LTD Appellant
 Through: Mr.Pradeep Gaur, Adv.

versus

RAJINDER SINGH DANGI & ORS Respondents
 Through: Mr.Jatinder Kamra, Adv.

+ **MAC.APP. 186/2019**
 RAJINDER SINGH DANGI & ORS Appellants
 Through: Mr.Jatinder Kamra, Adv.

versus

DINESH KUMAR & ORS (THE ORIENTAL INSURANCE
 CO LTD) Respondents
 Through: Mr.Pradeep Gaur, Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. These cross appeals have been filed challenging the Award dated 20.04.2017 passed by the learned Motor Accident Claims Tribunal, Shahdara, Karkardooma Court (hereinafter referred to as the 'Tribunal') in MAC No. 40A of 2013 (New No.753/2016), titled *Sh.Rajender Singh Dangi & Ors. v. Sh.Dinesh Kumar & Ors.*
2. It was the case of the claimants before the learned Tribunal, that on 24.03.2013 at 6.00 a.m., at the crossing ahead of Police



Chowki: Morta, Police Station: Sihani Gate, Ghaziabad, Uttar Pradesh, the deceased Neeraj Dangi along with Avinash @ Lavi, and Piyush, were coming on a motorcycle bearing no. DL-7SAY-3901, when a truck trolly bearing no. HR-38F-5523 being driven in a rash and negligent manner by the Sh. Dinesh Kumar, hit the motorcycle of the victims. As a result of the accident, the victims sustained fatal injuries leading to their death on the spot. Subsequently an FIR bearing no. 251/13 was registered at the Police Station: Sihani Gate, Ghaziabad, Uttar Pradesh against the driver of the offending vehicle.

3. The claimants further contended that their deceased son, Sh. Neeraj Dangi, was working in a call centre and taking tuitions, earning a monthly income of Rs. 14,000/-.

Challenge to the Impugned Award by the Insurance Company:

4. As far as the Insurance Company is concerned, the challenge to the Impugned Award is on two counts:
 - a) That the learned Tribunal having found that there is no evidence led by the claimants on their claim of the deceased taking tuitions or of income or employment, it has erred in awarding loss of dependency in favour of the claimants by taking the minimum wages of a matriculate as notified by the Government of NCT of Delhi as on the date of the accident as measure of income of the deceased;
 - b) That the learned Tribunal has erred in awarding interest @10% per annum, which the Insurance



Company claims to be excessive.

5. I have considered the above challenge of the appellant/Insurance company to the Impugned Award.
6. As far as the minimum wages for a matriculate being taken into account is concerned, the learned Tribunal has observed that the deceased was enrolled as a student for a Training Programme sponsored by Tech Mahindra. Though the said document did not show that the deceased was working in Tech Mahindra in any capacity, nor the claimants could prove his employment or income, the learned Tribunal has taken the minimum wages for a matriculate worker notified by the Government of NCT of Delhi as a measure of his income. I find no fault with the same. As it is not denied that the deceased had completed B.Com (First Year), the adoption of the Minimum Wages for a matriculate would give a fair estimate of the income that the deceased would have earned but for his life being cut-short by the unfortunate accident.
7. As far as the rate of interest is concerned, I find merit in the submission made by the learned counsel for the Insurance company. The rate of interest awarded by the learned Tribunal appears to be excessive.
8. Keeping in view that the accident had occurred on 24.03.2013, while the Award was passed on 20.04.2017, in my opinion, interest @9% per annum should have been awarded by the learned Tribunal. In fact, I must note that this Court, vide its order dated 05.09.2017 passed in MAC App. 797/2017, had directed the Insurance Company to deposit the compensation



amount along with interest @ 9% per annum with the learned Tribunal.

9. The Impugned Award stands modified to this extent.

Challenge to the Impugned Award by the Claimants:

10. As far as the Claimants are concerned, they challenge the Impugned Award on the following:-

- a) That the learned Tribunal has adopted a multiplier of 13 depending on the age of the mother of the deceased for determining the loss of dependency, whereas it should be considered on the age of the deceased himself.
- b) That the learned Tribunal has erred in not granting future prospects to the deceased.

11. I have considered the above challenges to the Impugned Award by the claimants.

12. In *National Insurance Company Ltd. v. Pranay Sethi & Ors.*, (2017) 16 SCC 680, the Supreme Court clarified that it is the age of the deceased which has to be considered for determining the proper multiplier. I may quote from the judgment as under:

“59.7 The age of the deceased should be the basis for applying the multiplier.”

13. In the present case, the deceased was aged about 21 years at the time of the accident. Accordingly, the multiplier of 18 should have been adopted by the learned Tribunal. The Award shall stand modified to this extent.

14. As far as the challenge of the Claimants against the learned Tribunal not taking into account Future Prospects while



determining the compensation on account of 'Loss of Dependency', I again find merit in the same.

15. In ***Pranay Sethi*** (supra), it has been 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."

16. In the present case, as the income of the deceased has been determined on basis of minimum wages for a Matriculate as notified by the Govt. of NCT of Delhi, and taking into account his age which was 21 years at the time of the accident, in my opinion, 40% of the income should have been added towards future prospects. It is ordered accordingly.

Conclusion:

17. In view of the above, the compensation amount payable to the Claimants on account of 'loss of dependency' is re-determined as under:



Head:	Amount:
Minimum Wages	Rs. 8814/-
Addition of future prospects @ 40%	Rs.3526/-
Total income =	Rs. 8814/- + Rs. 3526/- =Rs. 12,340/-
Deductions of personal expense @ 50%	Rs. 6170/-
Monthly loss of dependency	Rs. 6170/-
Annual loss of dependency=	Rs. 6170/- x 12 = Rs. 74,040/-
Multiplier	18
Total Loss of dependency=	Rs. 13,32,720/-

18. The enhanced compensation shall also carry interest @9% per annum from the date of filing of the claim petition before the learned Tribunal till the deposit thereof by the Insurance Company with the learned Tribunal.
19. As noted above, pursuant to the order dated 05.09.2017 passed by this Court in MAC APP 797/2017, the Insurance company has deposited the entire awarded amount along with interest @9% per annum with the learned Tribunal.
20. In view of the above, the Insurance Company shall deposit the enhanced compensation along with interest with the learned Tribunal within a period of six weeks from today.



21. On such deposit, the same shall be released in favour of the claimants in accordance with the Schedule of disbursal as stipulated by the Impugned Award.
22. The statutory amount deposited by the Insurance Company shall be released to the Insurance Company along with interest accrued thereon.
23. The appeals are disposed of in the above terms. There shall be no orders as to costs.

NAVIN CHAWLA, J

SEPTEMBER 18, 2023
RN/rp