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

+ **MAC.APP. 266/2024**

THE ORIENTAL INSURANCE CO. LTDAppellant

Through: Mr. J.P.N.Shahi, Advocate.

versus

BALVINDER KAUR (MOTHER) AND ORS

.....Respondents

**Through: Mr. Somnath Parashar,
Advocate for Respondent No.1
and 2.**

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

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02.09.2024

CM APPL. 42420/2024 (Ex.)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

REVIEW PET. 279/2024

3. The appellant/Insurance Company has preferred this application under Order XLVII Rule 1 read with Sections 114 and 151 of the Code of Civil Procedure, 1908, seeking review of the judgment dated 20.05.2024, passed by this Court.
4. Learned counsel for non-applicant respondents No.1 and 2 is present on advance notice.
5. Learned counsel for the appellant/Insurance Company has urged that the appeal bearing MAC.APPL. 266/2024 was heard on 20.05.2024, pointing out that even the learned counsel for the respondents, namely Mr. S.N. Parashar was present but inadvertently



in paragraph (04) it is recorded that 'None is present for the respondents, despite advance notice'.

6. As also acknowledged by Mr. Parashar, while the said aspect is evidently a typographical mistake that probably occurred due to rush of work, it is further submitted that the review is also warranted for the fact that the deceased was a bachelor and 1/2 of the notional annual income should have been deducted towards the personal use and living expenses of the deceased, and therefore it is urged that the quantum of compensation awarded by the learned Tribunal was excessive and not in accordance with the law, and thus warrants a review.

7. I am afraid the plea raised by the learned counsel for the appellant/Insurance Company on the above score cannot be accepted. This Court *vide* impugned judgment took into consideration the observations of the learned Tribunal in paragraph (10.11) of the impugned award dated 21.02.2024, whereby it was brought out that the deceased who was 26 years of age, was not only supporting his mother but also a divorced sister. It was in such circumstances that the learned Tribunal rightly proceeded to deduct 1/3 towards personal use and living expenses.

8. This Court *vide* paragraph (09) of the judgment dated 20.05.2024, had also an occasion to state that there was no rule of universal application that a real divorced sister would not be financially dependent upon the deceased and if such a view is accepted, that would be against the tenets of family values in our contemporaneous society.

9. The sum result is that the present review application is allowed to the extent that it was not dismissed in *limine* and it was decided



after hearing the learned counsels for both the parties.

10. In view above, the Personal Secretary of this Court is impressed upon to remove the judgment dated 20.05.2024 from the website and a correction being made in paragraph (04) to the fact that ‘learned counsel for respondents is present on advance notice’, further in the operative portion in paragraph (10) instead of the narrative that ‘the appeal is dismissed in *limine*’, it should be read as ‘the appeal is dismissed’.

11. A re-typed copy of the order be under the signatures of the Court master, be uploaded on the website thereafter.

DHARMESH SHARMA, J.

SEPTEMBER 02, 2024

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