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

% Date of decision: 7th February, 2024

+ MAC.APP. 269/2020, CM APPL. 33162/2020

NATIONAL INSURANCE COMPANY LIMITED

..... Appellant

Through: Mr. Manoj Ranjan Sinha, Ms.
Nisha, Mr. Deepak Sain and
Mr. Bhaskar, Advocates.

versus

NASREEN BEGUM AND OTHERS Respondents

Through: Mr. Akash Tomar, Advocate
for R-9 & R-10.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

DHARMESH SHARMA, J. (ORAL)

1. In the previous order dated 18.08.2023, it was recorded that no one has appeared for respondents No. 1 to 8, who are the claimants, despite service of notice of the present appeal.

2. Further, insofar as respondents No. 9 and 10 are concerned, who are the driver and the registered owner of the offending vehicle respectively, had filed MACT APP. 54/2022 and MACT APP. 77/2022 and vide order dated 09.03.2022 of this Court, the question whether the appellant/Insurance Company is entitled to seek recovery of the compensation amount from the said respondents has been remanded back to the learned Tribunal for fresh adjudication.

3. It is also pertinent to mention that 90% of the amount of



compensation with interest has already been ordered to be disbursed to the said claimants in terms of the order dated 16.12.2020 of this Court.

4. Learned counsel for the appellant/Insurance Company has urged that the challenge as to the quantum of compensation awarded by the learned Presiding Officer, MACT-02, West District, Tis Hazari Courts, Delhi, vide judgment-cum-award dated 18.02.2020, is restricted only to the extent that the year of birth of the deceased has been wrongly reckoned as 1983, whereas as per the Election ID Voter's Card of the deceased which is Annexure-A2, the year of birth should be reckoned as 1978. It is submitted that the multiplier of 17 has been applied by the learned Tribunal instead of 16.

5. Having heard learned counsel for the appellant/Insurance Company and on perusal of the record, this Court finds that while in paragraph (18) of the impugned judgment-cum-award dated 18.02.2020, the learned Tribunal not only wrongly reckoned the year of birth as 1983, instead of 1978 as per the Election Voter's ID Card, but also committed another error inasmuch as holding that the accident occurred on 05.12.2014, whereas the motor accident in question had occurred on 21.08.2013.

6. Unhesitatingly, the impugned award needs to be modified and based on the year of birth reckoned as 1978, the multiplier of 16 would be applicable. Accordingly, the annual loss of the financial dependency taken at Rs. 66,870.45 x 16 comes to Rs. 10,69,927.20 paise (Rs. 10,69,928) reckoned off to 10,70,000/-.



7. Accordingly, the total compensation is worked as under:-

SN	Heads	Amount (Rs.)
1	Loss of Financial Dependency	10,70,000
2	Funeral Expenses	15,000
3	Loss of Estate	15,000
4	Loss of Consortium	3,20,000
	TOTAL	14,10,000

8. Accordingly, the present appeal is allowed and the impugned judgment-cum-award dated 18.02.2020 is hereby modified to the extent that the total amount of compensation payable to the respondent Nos. 1 to 8/claimants shall be Rs. 14,10,000/- with interest @ 9% p.a. from the date of filing of the petition till its realization. However, if there is a shortfall after payment of 90% of the amount of compensation earlier awarded, the same shall be paid to claimant No.1. If any excess amount has been paid, the same shall not be refunded or recoverable from the claimants in the interest of justice.

9. The appeal is disposed of accordingly. The pending application is also disposed of accordingly.

DHARMESH SHARMA, J.

FEBRUARY 07, 2024

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