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

Judgment delivered on: 13th December, 2013

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MAC.APP. 667/2012

ORIENTAL INSURANCE CO LTD. Appellant

Represented by: Mr.A.K. Soni, Advocate.

Versus

BIRMA DEVI & ORS. Respondents

Represented by: Mr.Narender Kumar Sharma,
Advocate for Respondent Nos. 1 to 3.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. The present appeal is directed against the impugned award dated 27.03.2012, whereby the learned Tribunal has granted compensation for a sum of Rs.10,69,104/- alongwith interest at the rate of 7.5% *per annum* from the date of filing of DAR, i.e., 23.04.2011 till realization.

2. Learned counsel appearing on behalf of the appellant/Insurance Company has argued that the age of the deceased on the date of the accident was 50 years, despite that the learned Tribunal has added 50% of the income of deceased towards future prospects.

3. Learned counsel appearing on behalf of the respondents/claimants has fairly conceded that grant of 50% towards future prospects instead of 30% by the learned Tribunal is contrary to the settled law.

4. Taking into view the statement made by learned counsel for the respondents/claimants, the settled position of law and the age of the deceased, i.e., 50 years, I reduce the future prospects to 30%.

5. Another issue raised by the learned counsel for the appellant/Insurance Company is regarding grant of counsel fee by the learned Tribunal, i.e., Rs.20,000/- and Rs.5,000/- to the counsel of the petitioners, as detailed in sub-para under the head 'Issue No.3 (Relief)' of the impugned award.

6. To support his submission, he has relied upon the case of *ICICI Lombard General Insurance Co. Ltd. Vs. Kanti Devi & Ors.*, decided by this court on 30.07.2012.

7. I find force in the submission made by learned counsel for the appellant/Insurance Company. Therefore, the impugned award dated 27.03.2012 qua grant of counsel fee is set aside.

8. As discussed above, after adding 30% of the income of the deceased towards future prospects, the loss of dependency comes to Rs.8,22,556.2.

9. Consequently, the compensation amount is reduced from Rs.9,49,104/- to Rs.8,22,556.80/-.

10. Pursuant to order dated 03.07.2012, the appellant/Insurance Company has deposited the awarded amount (except the counsel's fee) along with upto

date interest with UCO Bank, Delhi High Court Branch in the name of the respondents/claimants in terms of the impugned award dated 27.03.2012. Thereafter, vide order dated 11.12.2012, 60% of the award amount was released in favour of the respondent Nos. 1 to 3 in terms of the order passed by the learned Tribunal.

11. Therefore, the Branch Manager of the Bank noted above is directed to release the balance compensation amount along with upto date interest accrued thereon after deducting the amount of Rs.1,26,547.2 with proportionate interest accrued thereon, being reduced by this Court, in favour of the respondents/claimants in terms of the impugned award dated 27.03.2012 on taking necessary steps by respondents / claimants.

12. The Branch Manager is further directed to release the excess amount of Rs.1,26,547.2 as has been noted in the preceding Para in favour of the appellant/Insurance Company on taking necessary steps by it.

13. Statutory amount shall be released in favour of the appellant/Insurance Company.

14. The Registry of this Court is directed to send a copy of this order to the Branch Manager, UCO Bank, High Court of Delhi, New Delhi for compliance.

SURESH KAIT, J.

DECEMBER 13, 2013

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