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**(2012) 10 DEL CK 0010**

**In the Delhi High Court**

**Case No :** MAC. App. 416 of 2012

Shriram Geneal Insurance Company Ltd. APPELLANT

Vs

Guddi Devi and Others RESPONDENT

**Date of Decision :** 05-10-2012

**Acts Referred:**

**Citation :** (2012) 10 DEL CK 0010

**Hon'ble Judges :** G.P. Mittal, J

**Bench :** Single Bench

**Advocate :** Pankaj Seth, for the Appellant; Pankaj Kumar Deval, for R-1 to R-6, for the Respondent

**Final Decision :** Allowed

## Judgement

G.P. Mittal, J.—The Appeal is for reduction of compensation of Rs. 13,77,600/- awarded by the Motor Accident Claims Tribunal (the Claims Tribunal) for the death of Tuntun Kumar @ Santosh Singh who died in a motor vehicle accident which occurred on 09.03.2011. The finding on negligence reached by the Claims Tribunal is not challenged by the Appellant Insurance Company.

2. The only ground of challenge raised by the Appellant Insurance Company is that the Claims Tribunal made an addition of 50% in the income towards future prospects although there was no evidence produced by the Claimants in this regard.

3. During inquiry before the Claims Tribunal it was claimed that the deceased was employed as a Security Guard and was earning Rs. 10,000/- per month. In the absence of any evidence with regard to the deceased''s employment or his income, the Claims Tribunal took the minimum wages of an unskilled worker, that is, Rs. 6100/- per month as his income and made an addition of 50% towards future prospects.

4. In the absence of any evidence with regard to the future prospects, this addition was not justified. On the other hand, the Claimants were entitled to

addition of 30% towards inflation on the basis of the report of the Supreme Court in Santosh Devi Vs. National Insurance Company Ltd. and Others, .

5. Applying the above ratio, the loss of dependency thus comes to Rs. 11,41,920/- (6100/- + 30% x 12 x 3/4 x 16).

6. On adding a sum of Rs. 60,000/- towards non-pecuniary damages as awarded by the Claims Tribunal, the overall compensation comes to Rs. 12,01,920/- as against Rs. 13,77,600/- awarded by the Claims Tribunal.

7. The excess amount of Rs. 1,75,680/- along with proportionate interest and the interest accrued, if any, during the pendency of the Appeal shall be refunded to the Appellant Insurance Company.

8. The compensation awarded shall be released/held in fixed deposit in favour of the Claimants in terms of the order passed by the Claims Tribunal.

9. The statutory deposit of Rs. 25,000/- be refunded to the Appellant Insurance Company.

10. The Appeal is allowed in above terms. Pending Applications also stand disposed of.

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