

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

Date of decision: 17th October, 2012

+ **MAC. APP. 537/2010**

RELIANCE GENERAL INSURANCE COMPANY LTD..... Appellant
Through: Mr. Pankaj Seth, Adv.

versus

VIKAS & ORS. Respondents
Through: Mr. Navneet Goyal, Adv. with
Ms. Suman N. Rawat, Adv. for
R-1 to R-7.

+ **MAC. APP. 1113/2012**

VIKAS & ORS. Appellants
Through: Mr. Navneet Goyal, Adv. with
Ms. Suman N. Rawat, Adv. for
R-1 to R-7.

versus

RELIANCE GENERAL INSURANCE COMPANY LTD.... Respondent
Through: Mr. Pankaj Seth, Adv.

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. These two Appeals arise out of a common judgment dated 05.03.2010 passed by the Motor Accident Claims Tribunal (the Claims Tribunal) whereby a compensation of ₹19,48,000/- was awarded in favour of the

legal heirs of deceased Govind Singh, who died in a motor vehicle accident which occurred on 05.04.2009.

2. MAC APP.537/2010 has been preferred by the Reliance General Insurance Company Limited for reduction of compensation on the ground that the income tax was not deducted from the deceased's income while computing the loss of dependency and that the compensation of ₹ 60,000/- awarded towards loss of love and affection is on the higher side.
3. On the other hand, in Cross Appeal being MAC APP.1113/2012 it is stated that the deceased was in settled employment and, therefore, some provision towards future prospects ought to have been made.
4. I have before me the salary slip Ex. PW-1/5 issued by the deceased Govind Singh's employer, that is, Northern Railway. As per the salary slip, the deceased was getting a gross salary of ₹ 18,726/-. A sum of ₹2012/- was being paid towards transport and washing allowance. A perusal of the salary slip further reveals that a sum of ₹53/- was being deducted towards residential accommodation allotted to the deceased and he was not being paid any HRA.
5. It is no longer *res integra* that the liability towards income tax is to be deducted from the deceased's salary for computation of loss of dependency. (*Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr.*, (2009) 6 SCC 121).
6. In *Sarla Verma* it was also laid down that an addition of 50% towards future prospects is to be made when the deceased is aged less than 40 years; 30% addition is to be made with the deceased is aged more than 40 years but less than 50 years and that no addition is to be made towards

future prospects in case the deceased is more than 50 years. In the instant case, the deceased was aged 51 years and was, therefore, not entitled to any future prospects.

7. As has been stated by me earlier, the deceased was not being paid any House Rent Allowance as he was provided official residential accommodation. Thus, addition of 30% in the basic pay of ₹11,180/- was required to be made as a component of HRA because facility of residential accommodation would be withdrawn by the employer on the death of the deceased. Thus, on making deduction of ₹2012/- towards transport and washing allowance, which were incidental to the employment and after making an addition of ₹3354/- towards HRA, there would be a liability of income tax of about ₹4,000/-, if the HRA is considered to be non taxable.
8. The loss of dependency thus comes to ₹20,83,980/- (20,068/- x 12 – 4,000/- (income tax) x 4/5 x 11).
9. The Claimants would be further entitled to a sum of ₹25,000/- towards loss of love and affection (*Sunil Sharma v. Bachitar Singh (2011) 11 SCC 425*; and *Baby Radhika Gupta v. Oriental Insurance Company Limited (2009) 17 SCC 627*); ₹ 10,000/- each towards loss to estate, loss of consortium and funeral expenses.
10. The overall compensation comes to ₹ 21,38,980/- as against ₹19,48,000/- awarded by the Claims Tribunal.
11. Thus, there is an enhancement of ₹1,90,980/- in the compensation which shall carry interest @ 7.5% per annum from the date of filing of the Claim Petition till its payment.

12. Appellant Reliance General Insurance Company Limited is directed to deposit the enhanced compensation along with interest with the Claims Tribunal within six weeks.
13. The entire enhanced compensation shall enure for the benefit of Smt. Maheshwari Devi, the deceased's widow.
14. Seventy five percent of the enhanced compensation shall be held in fixed deposit for a period of three years. Rest 25% shall be released on deposit.
15. The statutory deposit of ₹25,000/- shall be refunded to the Appellant Insurance Company.
16. Both the Appeals are disposed of in above terms.
17. Pending Applications also stand disposed of.

(G.P. MITTAL)
JUDGE

OCTOBER 17, 2012
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