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

Date of decision: 5th February, 2015

\+ **MAC.APP. 535/2012**

RELIANCE GENERAL INSURANCE CO LTD ..... Appellant
Through: Mr. K.L. Nandwani, Adv.

versus

RAJEEV KAPOOR & ORS ..... Respondents
Through: Nemo.

CORAM:
HON'BLE MR. JUSTICE G.P.MITTAL

G. P. MITTAL, J. *(ORAL)*

1. This appeal is for reduction of compensation of Rs.39,00,655/- awarded to the Respondents/Claimants for the death of Shivani Kapoor, who died in a motor vehicular accident which occurred on 12.11.2011.

2. The main grievance of the Appellant Insurance Company is that since the deceased Shivani Kapoor was gainfully employed on full time job, value of gratuitous services to the extent of Rs.3,000/- per month ought not to have been considered.

3. I have the Trial Court record before me. It was established that deceased Shivani Kapoor was working in the sample department of

M/s. Orient Fashion India Private Limited since the year 2005. Her salary increased from Rs.8,500/- per month to Rs.21,280/- per month as per the last salary certificate. This included a sum of Rs.800/- towards conveyance allowance. Even if the amount of Rs.800/- is excluded from the income and is taken as incidental to employment, yet salary of deceased Shivani Kapoor was Rs.20,480/-. Since she was in permanent job having good future prospects she was entitled to addition of 50% on the basis of her age of 38 years.

4. The loss of dependency even without addition of loss of gratuitous services comes to Rs.36,21,920/- (Rs.20,480/- x 12 – 5500/-(Income Tax) + 50% x 2/3 x 15).

5. On addition of Rs.1,00,000/- each towards loss of love and affection and towards loss of consortium, Rs.25,000/- towards funeral expenses and Rs.10,000/- towards loss to estate, the overall compensation comes to Rs.38,56,920/-.

6. The compensation of Rs.39,00,655/- awarded by the Claims Tribunal hence, cannot be said to be excessive or exorbitant even if gratuitous services are not considered. The compensation is just and reasonable.

7. The appeal is bound to fail; the same is accordingly dismissed.

8. Pending application also stands disposed of.

9. Statutory amount, if any, shall be refunded to the Appellant Insurance Company.

(G.P. MITTAL)
JUDGE

FEBRUARY 05, 2015
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