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

Decided on: 5th July, 2017

\+ MAC.APP. 31/2016 and CM 1354/2016

RELIANCE GENERAL INSURANCE CO LTD..... Appellant
Through: Mr. Rajat B., Advocate

versus

RANI BALA & ORS ..... Respondents
Through: Mr. Manoj Kumar Singh, Adv.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. Gulab Singh, 72 years old, met with an accident on account of negligent driving of Taxi bearing no.HR-55T-8822 at about 9.00 a.m. on 23.06.2014 and died in the consequence. The taxi is stated to have been owned and driven at the relevant point of time by the ninth respondent, it being covered against third party risk with the appellant insurance company for the relevant period.

2. On accident claim case (MACP 455/DAR/2014) instituted on 03.11.2014 in the wake of a detailed accident report (DAR) submitted in the Motor Accident Claims Tribunal for and on behalf of first to eighth respondents (collectively described as the claimants), the Tribunal, after inquiry, by judgment dated 16.11.2015 awarded compensation in the sum of Rs.13,35,595/- with interest at the rate of 10% p.a.

3. The Insurance company, which has been burdened with the liability to pay, is in appeal questioning the computation of the compensation.

4. The first contention urged by the appellant concerns the calculation of loss of dependency. It is pointed out that the Tribunal assumed the income of the deceased on the basis of minimum wages in absence of any formal proof at Rs.8,554/- p.m. It, however, made a deduction of $1/5^{th}$ on account of personal and living expenses on the ground that there were eight defendants. This apparently was incorrect as respondent nos.2 to 8 are grown up married children of the deceased. There is no evidence led on record to show that they were financially dependent on the deceased. In these circumstances, only the widow, the first respondent, should have been treated as the dependent, entitled to compensation on account of loss of dependency. The deduction, thus, will have to be made to the extent of 50%.

5. Applying the multiplier of five (05), which was correctly adopted keeping in view the age of the deceased, the loss of dependency works out to (8554/2 x 12 x 5) = Rs.2,56,620/-, rounded off to Rs.2,60,000/-.

6. The Tribunal awarded Rs.7 Lakhs towards loss of love and affection in addition to Rs.1 Lakh towards loss of consortium. Following the consistent view taken by this Court, having regard to the date of the accident, non-pecuniary damages under these heads at Rs.1,50,000/- each are added. [see *Rajesh & Ors. v. Rajbir Singh & Ors.*, *(2013) 9 SCC 54 and Shashikala V. Gangalakshmamma (2015) 9 SCC 150*]

7. The Tribunal awarded Rs.25,000/- towards funeral expenses and Rs.1 Lakh towards loss to estate. This again is not based on any set criteria. Following the consistent view taken by this court, award of Rs.50,000/- each against these two heads is added. [see *MAC.APP.No.160/2015 Shriram General Insurance Co Ltd v. Usha, decided by this court on 05.05.2016*]

8. The total compensation thus works out in the sum of (Rs.2,60,000/- + Rs.50,000/- + Rs.50,000/- + Rs.1,50,000/- + Rs.1,50,000/-) Rs.6,60,000/-.

9. The award is modified to Rs.6,60,000/-. Needless to add, the interim compensation shall have to be adjusted and the balance shall be payable with interest.

10. Following the consistent view taken by this court, rate of interest is modified to 9% p.a. [see judgment dated 22.02.2016 in MAC.APP. 165/2011 *Oriental Insurance Co Ltd v. Sangeeta Devi & Ors*.].

11. In terms of order dated 15.01.2016, the insurance company would have deposited the entire awarded amount with up-to-date interest with the tribunal, out of which 40% has already been released in terms of the impugned judgment. The balance, in entirely, shall be released to the first respondent only with requisite precaution for protection of the corpus.

12. The statutory amount shall be refunded.

13. The appeal and the pending application are disposed of in above terms.

R.K.GAUBA, J.

JULY 05, 2017/yg