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

Decided on: 24th October, 2017

\+ MAC.APP. 37/2016 and CM 1508/2016

RELIANCE GENERAL INSURANCE CO LTD ..... Appellant

Through: Mr. A.K. Soni, Advocate

versus

GEETA SHARMA & ORS ..... Respondents

Through: Mr. B.R. Sharma, Adv. for R-1 to 6

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

JUDGMENT (ORAL)

1. On the accident claim case (suit no.569/2014) instituted on 27.08.2014 by the first to sixth respondents (collectively, the claimants), the Motor Accident Claims Tribunal (Tribunal), by judgment dated 28.11.2015, awarded total compensation in the sum of Rs.37,67,000/- on account of death of Shiv Ratan Sharma in a motor vehicular accident that had occurred on 19.06.2014 due to the negligent driving of a motor vehicle described as one bearing registration no.DL-1LG-7001 admittedly insured against third party risk with the appellant / insurance company (insurer) for the period in question. The said amount included Rs.1,00,000/- towards loss of consortium and Rs.5,00,000/- towards loss of love and affection

besides Rs.1 Lakh towards loss to estate and Rs.25,000/- on account of funeral expenses.

2. The insurance company on which liability has been fastened presses the appeal questioning the said awards granted under non-pecuniary heads of damages.

3. Indeed, the awards under the above mentioned heads are not in *sync* with the awards generally made, reference in this context to be made to the decision of this court in *Shriram General Insurance Co Ltd v. Usha, MAC.APP.No.160/2015*, decided on 05.05.2016, which has been consistently followed in context of similarly placed fatal accident claims of the same vintage. Following the said ruling, the award of Rs.1,50,000/- each towards loss of consortium and loss of love and affection and Rs.50,000/- each towards loss to estate and funeral expenses are granted in lieu of the awards made by the tribunal. This would mean the total compensation will have to be reduced by [Rs.7,25,000/- (-) Rs.4,00,000/-] Rs.3,25,000/- (Rupees Three Lakh and twenty five thousand only). The award is, thus, reduced to [Rs.37,67,000/- (-) Rs.3,25,000/-] Rs.34,42,000/- (Rupees Thirty Four lakh and forty two thousand only). It shall carry interest as levied by the tribunal.

4. By order dated 18.01.2016, the insurance company had been directed to deposit the entire awarded amount with upto date interest with the tribunal within 30 days and from out of such deposit, 75% was permitted to be released, the balance kept in fixed deposit account. It is noted that the tribunal has specified the amounts falling to the share of each claimant. Since the award has been reduced, it is

directed that the amount already received by the claimants other than the first respondent- Geeta Sharma (widow) shall be treated as their respective shares. The entire balance now to go to the first respondent - Geeta Sharma (widow) alone. The tribunal shall calculate the balance to which the first respondent / Geeta Sharma is entitled to under the modified award and release the same from out of the amount kept in fixed deposit refunding the excess to the insurance company.

5. The statutory deposit shall also be refunded.

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

R.K.GAUBA, J.

OCTOBER 24, 2017
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