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

% **Date of Decision: 28th July, 2017**

\+ MAC.APP. 259/2015 & CM No.4546/2015, 2444-2445/2016

RELIANCE GENERAL INSURANCE CO LTD ..... Appellant
Through: Mr. A.K. Soni, Adv.

versus

MEENU WADHERA & ORS ..... Respondents
Through: Mr. Navneet Goyal, Adv. for R1 and R2.

\+ MAC.APP. 278/2015 & CM No.5035/2015 & 2014/2016

RELIANCE GENERAL INSURANCE CO LTD ..... Appellant
Through: Mr. A.K. Soni, Adv.

versus

KRISHNA AHUJA & ORS ..... Respondents
Through: Mr. Navneet Goyal, Adv. for R1 to R4.

\+ MAC.APP. 128/2016

MEENU WADHERA & ANR ..... Appellants
Through: Mr. Navneet Goyal, Adv.

versus

RELIANCE GENERAL INS CO LTD & ORS ..... Respondents
Through: Mr. A.K. Soni, Adv.

\+ MAC.APP. 889/2016

KRISHNA AHUJA & ORS ..... Appellants
Through: Mr. Navneet Goyal, Adv.

versus

RELIANCE GENERAL
INSURANCE CO LTD & ORS ..... Respondents
Through: Mr. A.K. Soni, Adv.

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The Claims Tribunal has awarded compensation of Rs.22,97,668/- to legal representatives of Gurmeet Singh Wadhera and Rs.21,62,467/- to legal representatives of Pradeep Kumar Ahuja which is under challenge in these appeals.

2. On 22nd November, 2012 at about 12:35 P.M., Gurmeet Singh Wadhera and Pradeep Kumar Ahuja travelling in Santro car bearing No.DL-2CAD-8026 were hit by Ford Endeavour car bearing No.PB-06Q-4123 at H Block, Kirti Nagar, Delhi which resulted in fatal injuries. The legal heirs of the deceased persons filed the claim petitions which were decided by the Claims Tribunal by a common award.

MAC.APP. 259/2015 & MAC.APP. 128/2016

3. Gurmeet Singh Wadhera was aged 45 years at the time of accident and was carrying on the business of Tent House in the West Patel Nagar, Delhi in the name M/s Kaka Tent House. The deceased was survived by his widow and minor son who filed the claim application for compensation. The

deceased was assessed to Income Tax. PW4, Naresh Kumar proved the Income Tax Return for the year 2010-2011 as Ex.PW4/1. According to the Income Tax Return, the deceased had income of Rs.2,55,000/- per annum. However, the Claims Tribunal deducted the standard deduction of Rs.85,000/- shown in the Income Tax Returns and took the balance amount of Rs.1,70,000/- as the income of the deceased. The Claims Tribunal added 30% towards future prospects, deducted 1/3 towards personal expenses and applied the multiplier of 13 to compute the loss of dependency as Rs.20,62,66.6/-. The Claims Tribunal awarded Rs.1,00,000/- towards loss of consortium, Rs.10,000/- towards loss of estate, Rs.25,000/- towards funeral expenses and Rs.1,00,000/- towards loss of care and guidance for minor children. The total compensation awarded by the Claims Tribunal is Rs.22,97,668/-.

4. Learned counsel for the appellant in MAC.APP.259/2015 urged at the time of hearing that the future prospects should not be taken into consideration and the Income Tax amount be deducted from the income of the deceased.

5. Learned counsel for the appellant in MAC.APP.128/2016 urged at the time of hearing that and the deduction of Rs.85,000/- by the Claims Tribunal be set aside. The annual income of the deceased be taken as Rs.2,55,000/- according to the Income Tax Return. It is submitted that the standard deduction of Rs.85,000/- relate to the investment made by the deceased in LIC, PPF, Mediclaim premium etc.

6. The Income Tax Return of the deceased has been seen from the Trial Court record. The deceased has declared income of Rs.2,55,000/- per annum out of which Rs.85,000/- has been shown as deduction under Section 80C

and 80GG-GGA of the Income Tax Act. The Claims Tribunal erred in deducting the said amount for computation of the compensation. The income of the deceased is taken as Rs.2,53,970/- (Rs.2,55,000 – Rs.1,030/- towards Income Tax). The addition of 30% towards future prospects is fair and reasonable and is upheld. The compensation awarded under the other heads is also fair and reasonable and upheld.

7. The claimants are entitled to the total compensation of Rs.31,48,503/- as per the break up given hereunder:-

Annual Income	: Rs.2,53,970/-
Add 30% towards future prospects	:Rs.76,191/-
Deduct 1/3rd towards personal expenses	:Rs.1,10,053.66
Annual loss of dependency	: Rs.2,20,107.34
Multiplier	: 14
Loss of dependency	: Rs.30,81,502.76(2,20,107.34x14)
Loss of care and guidance for minor children	: Rs.1,00,000/-
Loss of consortium	:Rs.1,00,000/-
Loss of estate	:Rs.10,000/-
Funeral expenses	:Rs.25,000/-

TOTAL : Rs.33,16,502.76 (rounded off as Rs.33,16,503/-)

8. MAC.APP.128/2016 is allowed and the award amount is enhanced from Rs.22,97,668/- to Rs.31,48,503/-. The MAC.APP.259/2015 is dismissed.

9. Reliance General Insurance Company Limited is directed to deposit the enhanced awarded amount with UCO Bank, Delhi High Court Branch by means of a cheque in the name of UCO Bank A/c Meenu Wadhera within

four weeks.

MAC.APP. 278/2015 & MAC.APP. 889/2016

10. Pradeep Kumar Ahuja was aged 50 years at the time of accident and was carrying on the business of photography in the Kirti Nagar, Delhi in the name Foto Shop. The deceased was survived by his widow, two unmarried daughters, one minor son and widowed mother who filed the claim application for compensation. The deceased was assessed to Income Tax. PW3, Girjia Shankar Bajpai proved the Income Tax Return for the year 2010-2011 as Ex.PW3/1(colly). According to the Income Tax Return, the deceased had income of Rs.2,54,813/-. However, the Claims Tribunal deducted the standard deduction of Rs.49,191/- shown in the Income Tax Return along with Income Tax of Rs.4,700/- and took the balance amount of Rs.2,00,922/- as the income of the deceased. The Claims Tribunal added 15% towards future prospects, deducted 1/4 towards personal expenses and applied the multiplier of 11 to compute the loss of dependency at Rs.19,06,247/-. The Claims Tribunal awarded Rs.1,00,000/- towards loss of consortium, Rs.10,000/- towards loss of estate, Rs.25,000/- towards funeral expenses and Rs.1,00,000/- towards loss of care and guidance for minor children. The total compensation awarded by the Claims Tribunal is Rs.21,62,467/-.

11. Learned counsel for the appellant in MAC.APP.278/2015 urged at the time of hearing that the future prospects should not be taken into consideration.

12. Learned counsel for the appellant in MAC.APP.889/2016 urged at the time of hearing that the annual income of the deceased be taken as Rs.2,54,813/- according to the Income Tax Return and the deduction of

Rs.49,191/- by the Claims Tribunal be set aside. It is submitted that the standard deduction of Rs.49,191/- relate to the investment made by the deceased in LIC, PPF, Mediclaim premium etc.

13. The Income Tax Return of the deceased has been seen from the Trial Court record. The deceased has declared income of Rs.2,54,813/- per annum out of which Rs.49,191/- has been shown as deduction under Section 80C of the Income Tax Act. The Claims Tribunal erred in deducting the said amount for computation of the compensation. The income of the deceased is taken as Rs.2,50,114/- (Rs.2,54,813/- – Rs.4699/- towards Income Tax). The addition of 15% towards future prospects is fair and reasonable and is upheld. The compensation awarded under the other heads is also fair and reasonable and upheld.

14. The claimants are entitled to the total compensation of Rs.26,07,957/- as per the break up given hereunder:-

Annual Income	: Rs.2,50,114/-
Add 15% towards future prospects	:Rs.37,517.1
Deduct 1/4th towards personal expenses	:Rs.71907.775
Annual loss of dependency	: Rs. 2,15,723.325
Multiplier	: 11
Loss of dependency	: Rs. 23,72,956.575 (2,15,723.325x11)
Loss of care and guidance for minor children	: Rs.1,00,000/-
Loss of consortium	:Rs.1,00,000/-
Loss of estate	:Rs.10,000/-
Funeral expenses	:Rs.25,000/-

TOTAL : Rs. 26,07,956.575 (rounded off as Rs.26,07,957/-)

15. MAC.APP.889/2016 is allowed and the award amount is enhanced from Rs.21,62,467/- to Rs.26,07,957/-. MAC.APP.278/2015 is dismissed.

16. Reliance General Insurance Company Limited is directed to deposit the enhanced awarded amount with UCO Bank, Delhi High Court Branch by means of a cheque in the name of UCO Bank A/c Krishna Ahuja within four weeks.

17. Statutory amount be refunded back to the Reliance General Insurance Company Limited in MAC.APP.259/2015 and in MAC.APP.278/2015 after the deposit of the enhanced award amount.

18. List for disbursement of the enhanced award amount on 09th October, 2017.

19. Copy of the judgment be given *dasti* to counsels for the parties under the signature of the Court Master.

JULY 28, 2017 **J.R. MIDHA, J.**

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