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

Decided on: 15th November, 2017

+ **MAC APPEAL No. 266/2014**

**RELIANCE GENERAL INSURANCE COMPANY
LTD.**

..... Appellant

Through: Mr. A.K. Soni, Adv.

versus

ASMA & ORS.

..... Respondents

Through: Ms. Jyoti Batra & Ms. Anita,
Adv.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. Salim @ Mohd. Salim, aged 20 years, a bachelor, died due to injuries suffered in motor vehicular accident that occurred on 11.07.2013 due to negligent driving of motor vehicle described as one bearing registration no. DL 1LR 7414. His mother and three siblings, they being first to fourth respondents (collectively, the claimants), instituted accident claim case (suit no. 460/2013) on 04.09.2013. The tribunal, by judgment dated 06.12.2013, awarded compensation in the sum of Rs. 18,02,952/-, and fastened the liability on the appellant (insurer), it admittedly having insured the vehicle against third party risk for the period in question. The amount of compensation includes loss of dependency calculated by the impugned judgment on the basis

of Rs. 7,722/- (minimum wages of unskilled worker) and 50% added towards future prospects on which deduction of 1/3rd was made towards personal and living expenses and multiplier of 18 was applied, besides Rs. 1,00,000/- towards loss of love & affection; Rs. 25,000/- towards funeral expenses and Rs. 10,000/- towards loss of estate.

2. The computation of compensation is questioned by the insurer, reliance being placed on the judgment of a Constitution Bench of the Supreme Court rendered on 31.10.2017 in *SLP (C) 25590/2014, National Insurance Company Ltd. Vs. Pranay Sethi and Ors.*, to argue that in such a case, the element of future prospects should have been restricted to 40% and that deduction on account of personal & living expenses should have been to the extent of 50% in view of the ruling in *Sarla Verma & Ors. v. Delhi Transport Corporation & Anr.*, (2009) 6 SCC 121, the non-pecuniary damages awarded also being excessive.

3. *Per contra*, the counsel for the claimants submits that since there are four claimants, the deduction should have been to the extent of 1/4th.

4. Following the ruling in *Pranay Sethi* (supra), the future prospects cannot be more than 40% in the present case. In view of the ruling in *Sarla Verma* (supra), the personal & living expenses in the case of bachelor will have to be to the extent of 50%. Thus, the loss of dependency is recalculated as $(7,722 \times 140 \div 100 \times 1/2 \times 12 \times 18)$ Rs. 11,67,566.40, rounded off to Rs. 11,68,000/-.

5. In view of the ruling in *Pranay Sethi* (supra), non-pecuniary damages are also revised to Rs. 15,000/- each towards loss to estate and funeral expenses.

6. Therefore, the total compensation comes to (11,68,000 + 15,000 + 15,000) Rs. 11,98,000/- (Rupees Eleven Lakh ninety eight thousand only). The award is modified accordingly. It shall carry interest as levied by the tribunal.

7. By order dated 26.03.2014, the insurance company had been directed to deposit the entire awarded amount with upto date interest with the Registrar General within the period specified and out of such deposit 80% was permitted to be released to the claimants. Since the award has been reduced, it is clear that excess has already been released to the claimants who are liable to refund. They are directed to do so by requisite deposit with the tribunal within thirty days. In case of default, the insurance company will have the liberty to take out appropriate proceedings before the tribunal. The balance in deposit with statutory deposit shall be refunded to the insurance company.

8. The appeal is disposed of in above terms.

R.K.GAUBA, J.

NOVEMBER 15, 2017

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