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

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Date of Decision:18th July, 2017

+ **MAC.APP.386/2014**

RELIANCE GENERAL INSURANCE CO. LTD. Appellant
Through: **Mr.Rajeev M. Roy, Advocate**

versus

RESHMA & ORS. Respondents
Through: **Mr.Navneet Goyal, Advocate for**
respondents no.1 to 9/claimants

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

JUDGMENT (ORAL)

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.21,25,400/- has been awarded to respondents no.1 to 9.
2. The accident dated 30th June, 2013 resulted in the death of Mehboob Ali. The deceased was aged 28 years at the time of the accident and was working as a driver earning Rs.12,000/- per month. The deceased was survived by his widow, five minor children, mother and minor brother and sister who filed the claim petition before the Claims Tribunal. The Claims

Tribunal took the minimum wages of Rs.7,722/- per month in respect of an unskilled person as income of the deceased, added 50% towards future prospects, deducted 1/5 towards his personal expenses and applied the multiplier of 17 to compute the loss of dependency as Rs.18,90,400/-. The Claims Tribunal awarded Rs.1 lakh towards loss of love and affection, Rs.1 lakh towards loss of consortium, Rs.10,000/- towards loss of estate, Rs.25,000/- towards funeral expenses. Total compensation awarded is Rs. Rs.21,25,400/- along with interest @ 9% per annum.

3. Learned counsel for the appellant urged at the time of the hearing that the addition of 50% towards future prospects be set aside.

4. Learned counsel for the claimants submits that the deceased was a professional driver earning Rs.12,000/- per month and the income of the deceased be taken as Rs.12,000/- per month.

5. It is submitted that the widow of the deceased appeared in the witness box as PW-1 and deposed that her husband was working as a driver with Mr. Arun Gupta at Khanpur, J.J. Colony, New Delhi and was earning Rs.12,000/- per month.

6. This Court is of the view that since the occupation of the deceased had been proved as a professional driver, this Court can safely assume his income as Rs.11,583.33 per month. This Court is of the view that it is not mandatory to resort to minimum wages in each and every case. Reference in this regard may be made to the judgment of the Supreme Court in ***Municipal Corporation of Delhi v. Association of Victims of Uphaar Tragedy***, AIR 2012 SC 100 in which 59 persons died in *Uphaar tragedy* and the Supreme Court granted compensation of Rs.10,00,000/- to the victims of above 20 years of age and Rs.7,50,000/- to the victims below 20 years of age on the

basis of multiplier method. The Supreme Court applied the multiplier of 15 and deducted 1/3rd towards the personal expenses. The income of the victims aged more than 20 years was assumed to be Rs.8,333/- per month and that of victims aged less than 20 years was assumed to be Rs.6,249/- per month. It is relevant to note that the *Uphaar tragedy* took place on 13th June, 1997 and the minimum wages at the relevant time were less than Rs.2600/- but neither the Division Bench of this Court nor Supreme Court resorted to minimum wages to compute the compensation although neither the income nor the occupation of the victims was proved. The computation of the compensation awarded by the Supreme Court would be as under :-

For victims aged more than 20 years:-

$(\text{Rs.}8,333/- \text{ less } 1/3^{\text{rd}}) \times 12 \times 15 = \text{Rs.}10 \text{ lakhs.}$

For victims aged less than 20 years:-

$(\text{Rs.}6249/- \text{ less } 1/3^{\text{rd}}) \times 15 = \text{Rs.}7.5 \text{ lakhs.}$

7. Applying the principles laid down in *Uphaar tragedy* case, the income of the deceased is presumed to be Rs.11,583.33. Accepting the contention of learned counsel for the appellant, no future prospects are added to the aforesaid income of the deceased. Taking the income of the deceased as Rs.11,583.33, deducting 1/5th towards personal expenses and applying the multiplier of 17, the loss of dependency is computed as Rs.18,90,400/- is upheld. The compensation of Rs.1 lakh towards loss of love and affection, Rs.1 lakh towards loss of consortium, Rs.10,000/- towards loss of estate, Rs.25,000/- towards funeral expenses awarded by Claims tribunal is just, fair

and reasonable. The claimants are entitled to total compensation of Rs.21,25,400/-.

8. The appeal is partially allowed. However, the compensation amount of Rs.21,25,400/- is upheld for the reasons mentioned above.

9. The appellant has deposited the entire award amount which has been disbursed to the respondents. The statutory amount be refunded back, to the appellant in MAC.APP.386/2014.

10. Copy of this judgment be given *dasti* to counsel for the parties under the signature of the Court Master.

JULY 18, 2017
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J.R. MIDHA, J.

