$~R-590

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

Decided on: 29th November, 2017

\+ MAC APPEAL 970/2012

MOHAN SINGH & ANR. ..... Appellants
Through: Mr. S. N. Parashar, Advocate

versus

PRESH GUPTA & ANR. ..... Respondents
Through: Ms. Neerja Sachdeva, Advocate for R-2

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

JUDGMENT (ORAL)

1. Ravi Kumar, a bachelor, then aged 23 years, suffered injuries in a motor vehicular accident that took place on 25.05.2008, due to negligent driving of a motor vehicle bearing registration no.DL-9CC-4966, which was admittedly insured against third party risk for the period in question with the second respondent (insurer) and died in the consequence. From the accident claim case (Suit No.551/2011), instituted on 28.08.2008, by his parents (the claimants), the tribunal after inquiry by judgment dated 26.04.2012, awarded compensation in the total sum of Rs.3,46,680/-, directing the insurer to pay with interest at the rate of 9% p.a., the said amount having been calculated thus :-

Loss of dependency	Rs.3,16,680/-
Funeral expenses	Rs.10,000/-
Loss of estate	Rs.10,000/-
Loss of love and affection	Rs.10,000/-
TOTAL	Rs.3,46,680/-

2. The claimants are in appeal to point out that there is deficiency in the award as there is no element of future prospects taken into consideration, multiplier of 13 having been adopted wrongly, as per the age of the mother and the non-pecuniary heads of damages being inadequate.

3. The tribunal has noted in para 3 that the deceased was 23 years old at the time of accident. Indeed, having regard to the ruling 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.,* the multiplier of 18 should have been applied.

4. The tribunal assumed the income with the help of minimum wages of a skilled worker at Rs.4057/- per month. As submitted by the counsel for the insurer that the assumption was unfounded. In these circumstances, the calculation will have to be made with the minimum wages of Rs.3633/- payable to an unskilled worker.

5. The element of future prospects of increase in income to the extent of 40% is added and the loss of dependency is recomputed as (3633/- x 140/100 x 1/2 x 12 x 18) Rs.5,49,309.60 rounded off to Rs.5,50,000/- (Rupees Five lac fifty thousand only).

6. Following the ruling in *Pranay Sethi* (supra) non-pecuniary damages awarded by the tribunal are revised. Amounts of Rs.15,000/- each are added towards loss to estate and funeral expenses. The total compensation, thus, comes to (5,50,000/- + 15,000/- + 15,000/-) Rs.5,80,000/- (Rupees Five Lac Eighty Thousand Only). The award shall carry interest as levied by the tribunal.

7. It is directed that the entire enhanced portion of the award with corresponding interest will fall to the share of second appellant Ramwati Devi (mother), it to be released to her in the form of interest bearing fixed deposit receipt to be taken out from a nationalized bank for a period of ten years with right to draw periodic interest.

8. The appeal stands disposed of in above terms.

R.K.GAUBA, J.

NOVEMBER 29, 2017
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