$~R-676

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

Decided on: 8th December, 2017

\+ MAC. APP. 1232/2012 & CM No.20098/2012

RELIANCE GENERAL INSURANCE COMPANY LIMITED
..... Appellant
Through: Mr. Pankaj Seth, Advocate

versus

JAI PRAKASH & ORS. ..... Respondents
Through: Mr. Meraj Khan, Advocate with Ms. Ashmita Aggarwal, Adv. for R-1 to R-3.

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

JUDGMENT (ORAL)

1. Motor accident claim case (MACT No.80/2011), which was instituted by first to third respondents (the claimants) on 03.03.2011 prayed for award of compensation under Sections 166 and 140 of the Motor Vehicles Act, 1988 on account of death of Amit Kumar, a bachelor aged 23 years, in a motor vehicular accident that occurred on 06.01.2011, due to negligent driving of vehicle bearing registration No.DL-4C-AH-8068. The tribunal accepted the said case by the impugned order dated 20.09.2012 and awarded Rs.20,92,000/- as compensation, calculating it thus:-

Sl.No.	Heads	Amount (in Rs.)
1.	Loss of dependency	17,22,000/-
2.	Funeral charges	25,000/-
3.	Loss of estate	75,000/-
4.	Loss of consortium	50,000/-
5.	Loss of love, company and affection, etc.	1,50,000/-
6.	Loss of gratuitous service	70,000/-
	Total	20,92,000/-

2. The liability to pay compensation with interest @ 9% per annum was fastened by the tribunal on the appellant (insurer) it admittedly having issued the insurance policy for third party risk in respect of the offending vehicle.

3. The insurer presses the appeal to question the award assailing the calculation of loss of dependency by deduction of one-third towards personal and living expenses and addition of future prospects of increase in income to the extent of 50%. It also assails the non-pecuniary damages, referring in such context to 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.*

4. It is noted that the tribunal had found on the basis of evidence that the deceased was employed as a store keeper in a private company at salary of Rs.10,250/- per month. In this view exception to the inclusion of future prospects of increase in income to the extent of

50% cannot be accepted. However, there is merit in the contention that, it being a case for compensation on account of death of a bachelor, the deduction on account of personal and living expenses should be restricted to 50%. At the same time, it is noted that the tribunal fell into error by adopting the multiplier of 14, as per the age of the claimant. The multiplier should be chosen as per the age of the deceased and, thus, appropriate multiplier would be 18.

5. The loss of dependency is recalculated as (10,250/- x 150/100 x 1/2 x 12 x 18) Rs.16,60,500/- rounded off to Rs.16,61,000/-. In view of dispensation in *Pranay Sethi* (supra), in lieu of non-pecuniary damages granted by the tribunal, Rs.15,000/- each is added towards loss of estate and funeral expenses.

6. Thus, the total compensation comes to (16,61,000/- + 15,000/- + 15,000/-) Rs.16,91,000/- (Rupees Sixteen Lacs Ninety One Thousand Only).

7. The award is reduced accordingly, it shall carry interest as levied by the tribunal.

8. By order dated 03.12.2012, the insurer was directed to deposit, 50% of the awarded amount with upto date interest with the tribunal and on such deposit the said amount was ordered to be released to the claimants. The insurer is directed to satisfy the remainder of its liability in terms of modification ordered above, by requisite deposit along with upto date interest with the tribunal within thirty days,

making it available to be released to the claimants in terms of the impugned award.

9. The statutory deposit shall be refunded to the insurer only after proof of award having been satisfied is shown.

10. The appeal along with pending application stand disposed of in above terms.

R.K.GAUBA, J.

DECEMBER 08, 2017
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