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

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Date of Decision: 08th December, 2017

+ MAC.APP.1077/2017 and C.M. Appl. 44580/2017

RELIANCE GENERAL INSURANCE COMPANY LTD... Petitioner

Through: Ms. Perna Mehta, Advocate
versus

BRAHAM SINGH & ORS.

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

J U D G M E N T (O R A L)

1. The appellant has challenged the award dated 26th October, 2017 whereby compensation of Rs.8,89,000/- has been awarded to respondents No.1 to 7.

2. The accident dated 07th June, 2009 resulted in the death of Ram Wati. The deceased was aged 44 years at the time of the accident and was survived by her husband, four daughters and two sons who filed the claim for compensation before the Claims Tribunal.

3. The Claims Tribunal took the minimum wages of Rs.3,934/- per month in respect of an unskilled worker as the income of the deceased, deducted 1/5th towards the personal expenses and applied the multiplier of 14 to compute the loss of dependency as Rs.5,28,729/-. The Claims Tribunal awarded Rs.1,50,000/- towards loss of love and affection, Rs.1,50,000/- towards loss of consortium, Rs.50,000/- towards loss of estate

and Rs.10,000/- towards funeral expenses. The total compensation awarded was Rs.8,89,000/- along with interest @ 9% per annum.

4. Learned counsel for the appellant urged at the time of hearing that the compensation awarded towards loss of love and affection, loss of consortium and loss of estate be reduced. The appellant also seeks reduction of the rate of interest from 9% to 6%.

5. This Court is of the view that the Claims Tribunal ought to have taken the future prospects into consideration. This Court is further of the view that 1/5th deduction towards the personal expenses is not warranted in view of the judgment of the Supreme Court in **New India Assurance Co. Ltd. v. Gopali**, 2012 (6) SCALE 534 where the Supreme Court allowed deduction of 1/10th in case of nine dependents. The relevant portion of the judgment is reproduced here under:

“18. Here, we are dealing with a case in which the deceased had 8 dependents including four sons and one daughter. The question which arises for our consideration is whether in 1992 a person having an income of less than Rs.3,000/- and a family of 9 could think of spending 1/3rd of his income on himself. On a conservative estimate, it is possible to say, he would have spent at least 50% of the income on the purchase of foodgrains, milk, etc., and for payment of water, electricity and other bills. 25% of the income would have been spent on the education of children which would have included school/college fee, cost of books, etc. 15% of the income would have been used for meeting other family necessities, like, clothes, medical expenses, etc. He would have then been left with 10% of his income, a portion of which could be used to meet unforeseen contingencies and on the occasion of festivals. In this scenario, any deduction towards personal expenses would be unrealistic. In any case, where the family of the deceased comprised of 5 persons or more having an income of

Rs.3,000/- to Rs.5,000/-, it is virtually impossible for him to spend more than 1/10th of the total income upon himself.

19. What we have observed hereinabove may not apply to rich people living in urban areas who can afford to spend a substantial amount of their income in clubs, hotels and on drinks parties. In those cases, there may be a semblance of justification in applying the rule of 1/3rd deduction but it would be wholly unrealistic to universally apply that rule in all cases.”

6. This Court is of the view that no reduction is warranted in the facts and circumstances of this case considering that reduction under the head of loss of love and affection, loss of consortium and loss of estate would be neutralized by the enhancement under the heads of future prospects and deduction of personal expenses of the deceased. That apart in ***Municipal Corporation of Delhi v. Association of Victims of Uphaar Tragedy***, AIR 2012 SC 100 59 persons died in *Uphaar tragedy* in 1997 and the Supreme Court granted compensation of Rs.10,00,000/- to the victims above 20 years of age by taking their income as Rs.8,333/- per month whereas the minimum wages at the relevant time were less than Rs.2600/-. The Supreme Court applied the multiplier of 15 to award compensation of Rs.10,00,000/- by multiplier method. ***Uphaar Tragedy*** took place in the year 1997 whereas the accident in question has taken place in the year 2009 and the compensation of Rs.8,89,000/- has been awarded to the family of the deceased.

7. There is no merit in the second contention raised by learned counsel for the appellant with respect to the rate of interest. The Supreme Court as well as this Court have consistently awarded interest @ 9% per annum. Reference be made to ***Municipal Corporation of Delhi v. Association of Victims of Uphaar Tragedy*** (supra).

8. It is noted that the accident in question took place in June, 2009 and the Claims Tribunal took 8 years to decide the claim petition and the family of the deceased is waiting for compensation for the last 8 years. The challenge to this award by the insurance company is unwarranted. The appellant company shall re-visit its policy to challenge such awards.

9. The Claims Tribunal shall disburse the compensation amount in terms of the Clause 26 of the Modified Claims Tribunal Procedure. However, before disbursing the compensation amount, the Claims Tribunal shall direct the bank in which the claimants have their savings bank accounts, not to issue cheque books/debit cards to the claimants and if the same have already been issued direct, the bank be directed to cancel the cheque books/ debit cards to the claimants and make an endorsement on the passbooks that no cheque book/debit card shall be issued to the claimants without the permission of this Court. The claimants shall produce the copy of this order before the concerned banks whereupon the bank shall make an endorsement on the passbook. The claimants shall produce the original passbooks with the necessary endorsement on the next date of hearing.

10. The appeal as well as the application is dismissed.

11. Copy of this judgment be sent to the claimants.

12. Copy of this judgment be sent to the Claims Tribunal for compliance.

13. Copy of this order be given *dasti* to counsel for the appellant under signatures of the Court Master.

DECEMBER 08, 2017
Rsk

J.R. MIDHA, J.