

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

Date of Decision: December 11, 2017

+ **MAC.APP. 985/2015**

RELIANCE GENERAL INSURANCE CO LTD Appellant
Through: Mr. Arun Yadav, Advocate

Versus

KAUSHALYA DEVI & ORS. Respondents
Through: Mr. Pratap Singh, Advocates

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

ORAL

1. Impugned Award of 24th September, 2015 grants compensation of ₹19,22,352/- to respondents-claimants with interest @10% p.a. on account of death of one *Avadh Bihari Singh*, aged 45 years, in a vehicular accident on 25th November, 2013. Respondents-claimants are the wife, three daughters and father of the deceased.

2. The facts of the case stand noted in the impugned Award, need no reiteration. Suffice to note that the income of the deceased has been calculated on minimum wages and 30% addition towards future prospects has been made while relying upon Supreme Court's decision in *Rajan Vs. Soly Sebastian & Anr.* (2015) 10 SCC 506. Learned Motor Accident Claims Tribunal (*henceforth referred to as the 'Tribunal'*) while taking

dependants to be more than four, has made deduction of 1/4th towards personal expenses of the deceased and by applying the multiplier of 14, loss of dependency has been calculated as under:-

Loss of Dependency

a)	Annual Income of deceased- Avadh Bihari Singh (8,086 X 12)	₹97,032/- p.a.
b)	30% addition towards future Prospects	₹29,109.60/- ₹1,26,141.60/-
c)	1/4 th deduction on personal living expenses	₹31,535.40/- ₹94,606.20/-
d)	Total Loss of dependency	= ₹94,606.20 X 14 = ₹13,24,486.80/-

3. The challenge to the impugned Award by learned counsel for appellant-Insurer is on the ground that deceased was not having any permanent job or regular income and so, no addition towards future prospects ought to have been made and that the deduction towards personal expenses of deceased ought to be 1/3rd and not 1/4th. The interest granted on the compensation amount is also said to be exorbitant. To submit so, reliance is placed upon recent Constitution Bench's judgment of Supreme Court in *National Insurance Company Ltd. Vs. Pranay Sethi & ors.* 2017 SCC OnLine SC 1270 and *Sarla Verma v. DTC*, (2009) 6 SCC 121.

4. On the contrary, learned counsel for respondents supports the impugned Award and submits that future prospects have been rightly granted and since deceased was providing manpower for chimney work at brick kilns and used to earn ₹15,000/- p.m. and besides he was also doing

agricultural work and so, the quantum of compensation granted is just and proper and thus, this appeal deserves to be dismissed.

5. Upon hearing and on perusal of impugned Award, evidence on record and the decisions cited, I find that the learned Tribunal has rightly relied upon Supreme Court's decision in *Rajan (Supra)* to make an addition towards future prospects but in view of Supreme Court's recent decision in *Pranay Sethi (Supra)*, the addition towards future prospects ought to be 25%, as the deceased was aged 45 years and not 30% as granted by the learned Tribunal. Accordingly, the impugned Award so far as it makes an addition towards future prospects, is modified to the extent that the addition made towards future prospects is reduced from 30% to 25%.

6. So far as deductions towards personal expenses is concerned, I find that in view of Supreme Court's decision in *Sarla Verma (supra)* deduction towards personal expenses of deceased ought to be 1/3rd and not 1/4th, as two daughters of the deceased were married and not dependent upon the deceased. After applying the multiplier of 14, the "loss of dependency" is calculated as under:-

Loss of Dependency

e)	Annual Income of deceased- Avadh Bihari Singh (8,086 X 12)	₹97,032/- p.a.
f)	25% addition towards future Prospects	₹24,258/- ₹1,21,290/-
g)	1/3 rd deduction towards personal expenses of deceased	₹40,430/-

$$\begin{aligned}
 & \text{₹80,860/-} \\
 h) \quad \text{Total Loss of dependency} &= \text{₹80,860/-} \times 14 \\
 &= \text{₹11,32,040/-}
 \end{aligned}$$

7. Since Supreme Court in *Pranay Sethi (Supra)* has clarified that the head relating to “*loss of care etc.*” does not exist, therefore, grant of compensation of ₹50,000/- under the head of “*loss of love and affection*” cannot be sustained and is accordingly set aside. The “*funeral expenses*” are accordingly reduced from ₹25,000/- to ₹15,000/- and compensation of ₹1,00,000/- under the head of “*loss of estate*” is reduced to ₹15,000/- and compensation under the head of “*loss of consortium*” is reduced from ₹1,00,000/- to ₹40,000/- Thus, the compensation payable under the non-pecuniary heads in view of Supreme Court’s decision in *Pranay Sethi (Supra)*, is as under:-

S. No.	On account of	Amount (₹)
1.	Loss of dependency	₹11,32,040/-
2.	Funeral expenses	₹15,000/-
3.	Loss of estate	₹15,000/-
4.	Loss of consortium	₹40,000/-
5.	Medicines & treatment	₹22,866/-
	Total	₹12,24,906/-

8. In view of Supreme Court’s recent decision in *Pranay Sethi (Supra)*, the interest granted on the compensation payable is reduced from

10% to 9%. However, the apportionment and liability aspect, as indicated in paragraphs No.21 & 22 of the Award, are not disturbed.

9. In view of aforesaid, the total compensation amount is reduced from ₹19,22,352.80/ to ₹12,24,906/- with interest @9% p.a.. Vide interim order of 18th December, 2015, appellant had deposited the awarded amount with interest with the Registry of this Court and out of it 50% was permitted to be released to claimants-respondents and remaining amount was kept in fixed deposit receipt. Registry is directed to release the compensation payable to claimants and refund the excess amount to appellant- Insurance Company. Statutory deposit, if any, be also refunded to appellant as per rules.

10. This appeal is disposed of in the aforesaid terms.

SUNIL GAUR
(JUDGE)

DECEMBER 11, 2017

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