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

***Decided on: 30<sup>th</sup> August, 2017***

+ **MAC.APP. 1013/2015 and CM APPL.32167/2015**

**RELIANCE GENERAL INSURANCE CO LTD..... Appellant**

**Through: Mr. Arun Yadav, Advocate**

**versus**

**SUGAS & ORS**

**..... Respondents**

**Through: Ms. Pankaj Kumari proxy counsel for  
Mr. S.N. Parashar, Advocate for R-1  
to R-5.**

**CORAM:**

**HON'BLE MR. JUSTICE R.K.GAUBA**

**JUDGMENT (ORAL)**

1. On 27.03.2013 at about 1:15 p.m., Imran, a bachelor, 18 years old, met with a motor vehicular accident involving negligent driving of motorcycle bearing registration No.DL-5SS-8779, admittedly insured against third party risk with the appellant insurance company (insurer) for the period in question, and died in the consequence. His mother and siblings, they being first to fifth respondents (collectively, the claimants), brought before the Motor Accident Claims Tribunal (the tribunal) accident claim case (MACT No.102/2013) on 11.04.2013 seeking compensation. The tribunal, by judgment dated 13.10.2015, awarded compensation in the total sum of Rs.17,01,864/- calling upon the appellant (insurer) to pay with interest @ nine per cent (9%) per annum.

2. The insurer, by the appeal at hand, points out that the tribunal fell into error by adding the element of future prospects of increase in the income even though it had been assessed on the basis of minimum wages, and that the deduction on account of personal and living expenses was made only to the extent of one-third, even though the claim was in relation to the death of a bachelor son and further that the multiplier of 18 according to the age of the deceased has been wrongly adopted.

3. In the case reported as *Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr.*, (2009) 6 SCC 121, Supreme Court, *inter-alia*, ruled that the element of future prospects of increase in income will not be granted in cases where the deceased was “self employed” or was working on a “fixed salary”. Though this view was affirmed by a bench of three Hon’ble Judges in *Reshma Kumari & Ors. Vs. Madan Mohan & Anr.*, (2013) 9 SCC 65, on account of divergence of views, as arising from the ruling in *Rajesh & Ors. vs. Rajbir & Ors.*, (2013) 9 SCC 54, the issue was later referred to a larger bench, *inter-alia*, by order dated 02.07.2014 in *National Insurance Company Ltd. vs. Pushpa & Ors.*, (2015) 9 SCC 166.

4. Against the above backdrop, by judgment dated 22.01.2016 passed in MAC Appeal No. 956/2012 (*Sunil Kumar v. Pyar Mohd.*), this Court has found it proper to follow the view taken earlier by a learned single judge in MAC Appeal No. 189/2014 (*HDFC Ergo General Insurance Co. Ltd. v. Smt. Lalta Devi & Ors.*) decided on 12.1.2015, presently taking the decision in *Reshma Kumari (Supra)* as

the binding precedent, till such time the law on the subject of future prospects for those who are “self-employed” or engaged in gainful employment at a “fixed salary” is clarified by a larger bench of the Supreme Court.

5. Since there was no clear proof of nature of avocation of the deceased or when the income of the deceased having assessed with the help of minimum wages, there was no occasion for any future prospects to be added. It is well settled that in case of a bachelor fifty per cent (50%) is to be deducted towards personal and living expenses.

6. On the issue of choice of the multiplier in the case of death of a bachelor, this Court in case titled *Reliance General Insurance Company Limited vs. Gomti & Ors.*, MAC APP.467/2016, decided on 24<sup>th</sup> August, 2017, has observed as under:-

*“6. The question as to the choice of multiplier in cases of deaths of bachelors, had come up before this Court in MAC appeal No. 431/2016 National Insurance Co. Ltd. vs. Mohd. Siddique & Ors. decided on 18<sup>th</sup> July, 2017, where it was urged on behalf of the insurance company that the law laid down by the Supreme Court in cases of General Manager, Kerala State Road Transport Corporation vs. Susamma Thomas & Ors., (1994) 2 SCC 176 and U.P. State Road Transport Corporation and Ors. vs. Trilok Chandra and Ors., (1996) 4 SCC 362 continues to prevail as the binding precedent. This Court, after examining the issue in light of the decisions in aforementioned cases and in the cases of Reshma Kumari vs. Madan Mohan (2013) 9 SCC 65 and noting the dicta in Central Board of Dawoodi Bohra Community & Anr. v. State of Maharashtra & Anr., (2005) 2 SCC 67; Safiya Bee v. Mohd. Vajahath Hussain @ Fasi, (2011) 2 SCC 94 and Union of India & Ors. v. S.K. Kapoor, (2011) 4 SCC 589, held as under:-*

*“16. Since the decision in Trilok Chandra and Ors., (supra) by a bench of three Hon’ble Judges is prior in time in relation to the decisions in Reshma Kumari (supra) and Munna Lal Jain (supra), it is the statement of law on choice of multiplier in the former which is to be taken as the binding precedent. Thus, this court will follow the dictum in the said judgment and adopt the multiplier according to the age of the deceased or that of the claimants, whichever is higher”. ”*

7. Since the age of the mother, as per the ration card (copy at page 161 of the tribunal’s record) on the relevant date was 42 years (born in 1971), the multiplier of 14 would apply. Thus, the award towards the loss of dependency with the help of minimum wages (7254/-) is re-computed as  $(7254/- \div 2 \times 12 \times 14)$  Rs.6,09,336/- rounded off to Rs.6,10,000/-.

8. The non-pecuniary heads as awarded by the tribunal are inadequate. Having regard to the fact that the accident had occurred in March, 2013, following the dispensation in MAC.APP.No.160/2015 *Shriram General Insurance Co Ltd v. Usha* decided by this court on 05.05.2016, non-pecuniary damages in the sum of Rs.1,50,000/- towards loss of love & affection and Rs.50,000/- each towards loss of estate and funeral expense are added. Thus, the total compensation payable in the case comes to  $(6,10,000/- + 1,50,000/- + 50,000/- + 50,000/-)$  Rs.8,60,000/- (Rupees Eight Lakhs Sixty Thousand Only).

9. The award is modified accordingly. Needless to add, it shall carry interest as levied by the tribunal.

10. By order dated 07.01.2016, the insurance company had been directed to deposit entire awarded amount with the Registrar General of this court, out of which fifty percent (50%) was allowed to be released to the claimants and the balance was ordered to be kept in interest bearing fixed deposit receipt with the UCO Bank, Delhi High Court, New Delhi.

11. The registry is directed to recalculate the amount payable as per modification ordered above, releasing the balance, if any, in favour of the claimants in terms of the impugned award and refunding the excess, with corresponding interest, to the appellant insurance company.

12. The statutory amount shall also be refunded to the appellant insurance company.

13. The appeal along with accompanying application stands disposed of in above terms.

**AUGUST 30, 2017**

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**R.K.GAUBA, J.**