

\$~R-716

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

Decided on: 11th January, 2018

+ **MAC APPEAL 34/2013**

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

Through: **Mr. A.K. Soni with Mr. Pavan
Kumar, Advocates.**

versus

MEENA & ORS

..... Respondents

Through: **None.**

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The accident claim case (MACT No.105/09) instituted on 14.10.2009 by the first to fourth respondent (collectively, the claimants) had sought compensation under Section 166 of Motor Vehicles Act, 1988 on account of death of Ishwar Lal Gupta, aged 54 years, in a motor vehicular accident that had occurred on 21.07.2009 due to negligent driving of motor vehicle described as Trola bearing registration No. HR-55G-9003, admittedly insured against third party risk with the appellant (the insurer).

2. By the impugned judgment dated 12.09.2012, the Tribunal awarded compensation in the total sum of Rs. 26,38,088/-, calculating it thus:-

1)	Loss of dependency	Rs.22,88,088/-
2)	Funeral charges	Rs.25,000/-
3)	Loss of Estate	Rs.75,000/-
4)	Loss of love, company and affection etc.	Rs.1,50,000/-
5)	Notional loss of gratuitous services	Rs.1,00,000/-
	Total	Rs.26,38,088/-

3. The insurer pressed the appeal at hand assailing the abovesaid award on the ground that in calculating the loss of dependency, the Tribunal fell into error by adding the element of future prospects to the extent of 30%, the award under the non-pecuniary heads of damages also being excessive, reference being made to the ruling of 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. The appeal was admitted and put in the list of 'Regulars' as per order dated 07.07.2015. On it being called out in its own turn, there is no appearance on behalf of the claimants. Learned counsel for the appellant has been heard and, with his assistance, the record perused.

5. Having regard to the ruling of the Supreme Court in *Pranay Sethi (supra)*, the element of future prospects could not have been added beyond 15% and the non-pecuniary heads of damages also need to be suitably reduced. Thus, the loss of dependency, on the income proved to be Rs.20,000/- per month, is re-calculated as Rs.(20,000 X 115/100 X 2/3 X 12 X 11) Rs. 20,24,000/-.

6. Following the ruling in *Pranay Sethi (supra)*, in lieu of awards under the non-pecuniary heads of damages awarded by the Tribunal, Rs.40,000/- towards loss of consortium and Rs.15,000/- each under the heads of loss to estate and funeral expenses are added. Therefore, the total compensation is computed as Rs.(20,24,000 + 40,000 + 15,000 + 15,000) Rs.20,94,000- (Rupees Twenty Lakhs Ninety Four Thousand Only).
7. The award is modified accordingly. It shall carry the interest as levied by the Tribunal. Needless to add, the interim award shall be adjusted.
8. By order dated 11.01.2013, the insurance company was directed to deposit the entire awarded amount with up-to-date interest with UCO Bank, Delhi High Court Branch and, out of such deposit, 50% was permitted to be released to the claimants. The Registry shall now calculate the balance amount payable to the claimants in terms of the modified award and release the same from out of the remainder, refunding the excess if any to the insurance company.
9. The statutory amount shall also be refunded to the insurance company.
10. The appeal stands disposed of in above terms.

R.K.GAUBA, J.

JANUARY 11, 2018

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