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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 5th April, 2018

+ MAC.APP. 770/2016 and CM No. 34734/2016 and CM No.
47653/2016

SHRIRAM GENERAL INS CO LTD Appellant
Through: Mr. P. Acharya, Adv.

versus

BHAWANA MADHOK & ORS Respondents
Through: Mr. S.N. Parashar, Adv.

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

JUDGMENT (ORAL)

1. Karan Madhok, aged 31 years, earning his livelihood as a Contractor, suffered injuries in a motor vehicular accident that occurred on 20.06.2011 due to the negligent driving of the truck bearing registration no. UP-32-AN-0181 and died in the consequence. His wife and other members of the family dependent on him, they being first to fourth respondents respectively (the claimants) instituted accident claim case (MACT case no. 451130/2016, old no. 61/2014). The Tribunal held inquiry and accepted the claim case of the claimants for compensation on fault liability holding the appellant (insurer of the truck) liable to pay and, by judgment dated 09.07.2016, awarded total compensation of Rs.22,05,616/- it being inclusive of Rs.18,05,616/- towards loss of dependency, Rs.1,50,000 each towards loss of

consortium and loss of love and affection and Rs.50,000/- each towards loss of estate and funeral expenses.

2. The insurer in the appeal questions the above-mentioned award on the ground that the loss of dependency has been wrongly calculated by taking into account the element of future prospects of increase in income to the extent of 50% (fifty per cent) and that the non-pecuniary damages awarded are excessive. Reliance is placed on the ruling of the Constitution Bench of Supreme Court rendered on 31.10.2017 in *SLP (C) 25590/2014, National Insurance Company Ltd. Vs. Pranay Sethi and Ors.*

3. The learned counsel for the respondent (the claimants) fairly concedes on both above-mentioned accounts. Having regard to the ruling in *Pranay Sethi* (supra), the element of future prospects will have to be restricted to 40% (forty per cent) and the non-pecuniary heads of damages also brought in accordance with the dispensation in the said case.

4. Thus, the loss of dependency is re-calculated as $(7826 \times 140/100 \times 3/4 \times 12 \times 16)$ Rs.15,77,721.60 rounded off to Rs.15,78,000/-. Adding Rs.40,000/- towards loss of consortium and Rs.50,000/- each towards loss of estate and funeral expenses, the total compensation comes to $(15,78,000 + 40,000 + 15,000 + 15,000)$ Rs.16,48,000/-. The award is modified accordingly. It shall carry interest at the rate of 9% (nine per cent) as awarded by the Tribunal. The apportionment of the award as directed by the Tribunal shall prevail.

5. By order dated 31.01.2017, the release of interest to the extent

of 50% (fifty per cent) on the compensation in favour of first respondent was allowed. The Registry shall now calculate the amount payable to the respective claimants in terms of the modified award, refunding the excess with statutory deposit to the insurance company.

6. The appeal and the applications stand disposed of.

R.K.GAUBA, J.

APRIL 05, 2018

uj

