

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

Date of Decision: July 04, 2018

+ **MAC.APP. 542/2015 & C.M. 12208/2015**

RELIANCE GENERAL INSURANCE CO LTD. Appellant
Through: **Mr. A.K. Soni, Advocate**

Versus

SAHAJHAN KHATOON & ORS. Respondents
Through: **Mr. Naveen Goyal, Advocate**

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

1. Impugned Award of 10th April, 2015 grants compensation of ₹11,62,760/- with interest @ 8% p.a. to respondent-claimants on account of death of one *Mohd. Kasim* in a vehicular accident on 18th April, 2013.
2. The factual background of this case, as noticed in the impugned Award, is as under:-

“The brief facts of the case as mentioned in the petition are that one Mohd. Kasim S/o late Abdul Rehman met with road traffic accident on 18.4.2013 at about 1:10 AM and the deceased alongwith Mohd. Ahsaan and other persons were standing near their Tempo near Sunariya Hotel, NH-8, Manesar, Gurgaon, Haryana and in the meantime a Tanker bearing no. MH-43Y-0832 driven by R-1 came from behind in a very high speed which was being driven in rash and negligent manner and it hit the deceased and other persons with great force as a result of which deceased expired on the spot due to injuries received in the accident.”

3. On the basis of evidence led, impugned Award has been rendered by Motor Accident Claims Tribunal (*henceforth referred to as “the Tribunal”*) and the breakup of compensation awarded is as under:-

1.) Loss of dependency	:	₹9,37,760/- (rounded off)
2.) Loss of Care & Guidance for children	:	₹1,00,000/-
3.) Funeral expenses	:	₹25,000/-
4.) Loss of Consortium	:	₹1,00,000/-
Total :		₹11,62,760/-

4. The challenge to impugned Award by learned counsel for appellant-Insurer is on the ground that deduction towards “*personal expenses*” of deceased ought to be $\frac{1}{4}^{\text{th}}$ and not $\frac{1}{5}^{\text{th}}$, as three daughters are married and son of deceased is of major age. It is further submitted that in light of decision of Constitution Bench of Supreme Court in *National Insurance Company Ltd. Vs. Pranay Sethi & ors.* (2017) 16 SCC 680, addition towards future prospects ought to be 10% and not 15%, as granted by Tribunal. It is next submitted that multiplier of 9 ought to have been applied and not of 11. Thus, it is submitted that compensation awarded deserves to be suitably reduced. Learned counsel for appellant-Insurer submits that compensation granted under the “*non-pecuniary heads*” ought to be in terms of Supreme Court’s decision in *Pranay Sethi (Supra)*.

5. On the contrary, learned counsel for respondents supports impugned Award and submits that the compensation awarded is just and fair and so, this appeal deserves to be dismissed.

6. Upon hearing and on perusal of impugned Award and the evidence on record, I find that out of eight legal heirs, three were married daughters and one son was aged 26 years on the date of accident and so, deduction towards “*personal expenses*” ought to be 1/4th. Regarding addition towards “*future prospects*”, in terms of Supreme Court’s decision in *Pranay Sethi (Supra)*, it has to be of 10% and not 15%. In view of Supreme Court’s decision in *Sarla Verma (Smt.) and others v. Delhi Transport Corporation and Another*, (2009) 6 SCC 121, the applicable multiplier is of 11 and the Tribunal has rightly applied it. Accordingly, the “*loss of dependency*” is reassessed as under:-

$$\text{₹}7,722 \times 110/100 \times 3/4 \times 12 \times 11 = \text{₹}8,40,925.8/-$$

(rounded off to ₹8,40,926/-)

7. As regards compensation granted under the ‘*non pecuniary heads*’, it needs to be brought in tune with decision of Constitution Bench of Supreme Court in *Pranay Sethi (supra)*. Accordingly, compensation granted by the Tribunal under the head of ‘*loss of care and guidance for children*’ is disallowed and “*funeral expenses*” are decreased from ₹25,000/- to ₹15,000/-. Similarly, compensation granted under the head “*loss of consortium*” is also reduced from ₹1,00,000/- to ₹40,000/-. However, compensation of ₹15,000/- under the head “*loss of estate*” is granted.

8. In light of the aforesaid, the compensation payable to respondent-claimants is reassessed as under:-

S.No.	Description	Amount
1.	Loss of Dependency	₹8,40,926/-
2.	Loss of Consortium	₹40,000/-

3.	Funeral Expenses	₹15,000/-
4.	Loss of Estate	₹15,000/-
	Total	₹9,10,926/-
	Less (interim compensation awarded vide order dated 09.09.2014)	₹50,000/-
		₹8,60,926/-

9. Consequentially, the compensation amount payable stands reduced from ₹11,62,760/- to ₹9,10,926/-. Compensation awarded be released forthwith to respondent-claimants in terms of impugned Award. Statutory deposit along with excess deposit, if any, be refunded to appellant-Insurer.

10. With aforesaid directions, this appeal and the application are disposed of.

(SUNIL GAUR)
JUDGE

JULY 04, 2018

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