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

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Decided on: 04.09.2019

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MAC.APP. 582/2019

SUDESH RANI & ORS

..... Appellants

Through: Mr. Manish Maini and Ms. Hreeshika
Bhargav, Advocates.

versus

RELIANCE GENERAL INSURANCE COMPANY

LTD & ORS

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal seeks enhancement of compensation granted by the learned Motor Accidents Claim Tribunal, vide order dated 06.10.2018, in Suit No. 5702/2016 on the ground that instead of ITR of Assessment Year 2014-15 wherein the income of the deceased was shown as Rs. 2,55,459/- the ITR of previous Assessment Year, which was Rs. 1,92,730/- was taken into consideration, to assess the annual income of the deceased. The learned counsel for the appellant submits that there was no reason to discard the ITR of the AY 2014-15 which was filed after the demise of the deceased, because he had been consistently filing his income tax returns from the year 2011 onwards; that for a law abiding citizen who files his tax returns on a regular basis, there could arise no reason to doubt the same unless something

glaring is brought on record to doubt or disregard the last Return. It is contended that the ITR was filed within time and has been accepted by the Income-Tax Authorities.

2. The impugned order has deal with the issue as under:-

“26. Undisputedly, ITR of deceased for A.Y. 2014-2015 is shown to have been filed only after the date of accident and this fact is also admitted by PW1 during her cross examination. Nevertheless, deceased Vinod Kumar is shown to have filed ITRs for the A.Ys. 2011-2012, 2012-2013 and 2013-2014 much prior to the date of accident in question. Even if the last ITR for A.Y. 2014-2015 is not taken into consideration, ITR for immediate previous A.Y i.e. 2013-2014, which is shown to have been filed on 29.07.13 (date of accident being 14.02.15) has to be taken into consideration in order to calculate loss of dependency. There is no reason for discarding said document as it is beyond imagination that deceased would have shown inflated income in said ITR on 29.07.13 by contemplating that he would unfortunately suffered fatal injuries on 14.02.15. Deceased has shown his net annual income of Rs. 1,92,730/- in I.T.R for A.Y 2013-2014. The said annual income was totally exempted from tax during the said year and thus, no amount of tax is to be deducted from said income.”

3. The appellant was engaged in the business of supplying generators on rent. His gross income for the year 2011-12 was Rs. 1,71,876/-, for 2012-13, it was Rs. 1,89,544/-, for 2013-14 it was Rs. 2,05,000/-, for 2014-15 it was Rs. 2,55,495/-.

4. What emerges from the aforesaid tax returns is that there has been a consistent increase of 10-15% in the gross income of the said assessee. The

fact that the income increased to more than 25% in the year of his demise, cannot be a reason for discarding it altogether.

5. In the circumstances, for the learned Tribunal to have considered net annual income for the year 2013-14 against the gross income of Rs. 2,05,000/- is erroneous because there is no reason to doubt the ITR filed for the year 2014-15.

6. The Court would note that the deceased passed away on 14.02.2015, the returns for AY, 2014-15 for a gross total income of Rs. 2,55,495/- was filed on 31.08.2014. There is no reason to doubt the same. Accordingly, the figure of Rs. 2,55,495/- shall be taken as the basis for computation of compensation towards 'loss of income'. Furthermore, 25% addition shall be made in the said amount for compensation towards 'loss of future prospects' in terms of *National Insurance Co. Ltd. vs. Pranay Sethi & Ors.* (2017) 16 SCC 680, of which 1/4th shall be deducted towards personal expenses and multiplier of 14 as mentioned in the order shall be applied so the compensation towards 'loss of dependency' payable to the beneficiaries would be Rs. $2,55,495 \times 125/100$ (addition of 25% for 'loss of future prospects') $\times 75/100$ (1/4 deduction towards personal expenses) $\times 14$ (multiplier) = Rs. 33,53,371/-.

7. The award of compensation had been passed apropos four claimants. The Court would note that each of the claimants would also be entitled to compensation towards 'loss of consortium' and 'loss of love and affection' @ Rs. 40,000/- and Rs. 50,000/- respectively in terms of dicta of the Supreme Court in *Magma General Insurance Co. Ltd. vs. Nanu Ram @ Chuhru Ram & Ors.*, 2018 SCC OnLine SC 1546 It is so granted. Additionally, Rs. 15,000/- each will be payable towards 'funeral expenses'

and 'loss of estate' in terms of *Pranay Sethi (Supra)*. The same amount is awarded.

8. In view of the above, the total amount payable by the insurer is as under:

S.No.	Particulars	Amount
1.	Loss of Dependency [Rs. 2,55,495/- (gross total income) x14 (multiplier)x125/100 (loss of future prospects)x75/100 (1/4 th deduction towards personal expenses)]	Rs. 33,53,372/-
2.	Loss of love and affection [Rs. 50,000/- x 4 (claimants)]	Rs. 2,00,000/-
3.	Loss of consortium [Rs. 40,000/- x 4 (claimants)]	Rs. 1,60,000/-
4.	Loss of Estate	Rs. 15,000/-
5.	Funeral Expenses	Rs. 15,000/-
TOTAL		Rs. 37,43,372/-

9. Therefore, the total payable amount to the claimants shall be Rs. 37,43,372/-. Let the enhanced amount of Rs. 11,43,372/- along with interest @ 9% from the date of filing of the claim petition till its realization, be deposited before the learned Tribunal within three weeks from date of receipt of copy of this order, to be released to the beneficiaries of the award in terms of the scheme of disbursement specified therein.

10. The appeal is disposed-off in the above terms.

NAJMI WAZIRI, J

SEPTEMBER 04, 2019/AB