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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Decided on: 17.07.2019

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MAC.APP. 676/2019, CM APPLs. 31740-41/2019

SBI GENERAL INSURANCE CO LTD

..... Appellant

Through: Mr. Sameer Nandwani, Adv.

versus

SHAKUNTALA & ORS

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal impugns the award only apropos the quantum of compensation on the ground that the Income Tax Returns (ITR) for two years of the deceased which was which filed after his unfortunate demise was taken into consideration.

2. It is the appellant's argument that if the deceased was a regular income tax payee then the ITRs of the previous two years prior to his demise ought to have also been taken into consideration so that the Tribunal could have satisfied itself that the ITRs were not solely built up for the sake of claiming an inflated compensation.

3. The ITRs were filed for the Assessment Years (AY) 2013-14 & 2014-15. The accident happened on 29.11.2014 in which eight people were moved down by the offending insured vehicle when most of the persons were relatives and were waiting by the side of the road while their vehicle's punctured tyre to be fixed. The rash and negligent driving of the offending insured vehicle by the owner-cum-driver was writ large in the manner, magnitude and nature of the accident. A total of seven persons died in the gruesome road accident. One member of the group was severely injured and he was an eye witness.

4. Although, the vehicle owner-cum-driver filed his reply/written statement, he did not participate in the proceedings and they accordingly proceeded *ex-parte*. The appellant/insurance company has only challenged the quantum of compensation for the aforesaid reason.

5. A perusal of the aforesaid reply/written statement shows that the vehicle owner did not raise any question about the basis or veracity of the ITR in the cross examination. Additionally, the appellant has not been able to show that any question or objection was raised about the veracity of ITRs, nor prove that they were submitted only for the purpose of inflating the claim for damages.

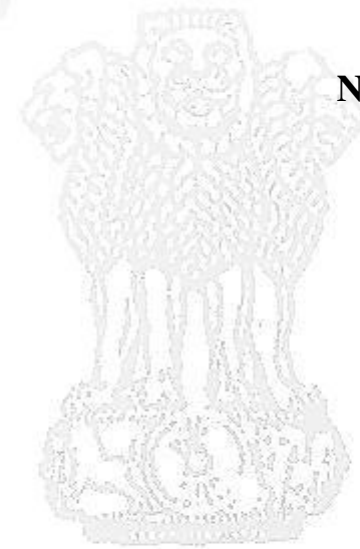
6. This Court is of the view that insofar as the ITRs were valid, albeit they were filed for two Assessment Years simultaneously, including the eight months of the year in which the accident had happened i.e. 2014, there would be no reason to question the genuineness of the said returns. The returns would ordinarily be on the basis of bank transactions and other relevant records. For the AY 2014-15 a total income of Rs.2,47,050/- has

been shown, on which a tax of Rs.200/- was paid. Accordingly monthly income of the deceased was taken as Rs.20,587/- on which 50% was added towards loss of future prospects and the multiplier of 17 was considered, because the age of the deceased was under 20 years. Quite clearly, there is no error in the computation.

7. In view of the above, the Court finds no reason to interfere with the impugned order. The petition is without merit and is accordingly dismissed.

NAJMI WAZIRI, J

JULY 17, 2019/acm



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