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

\+ MAC.APP. 716/2017 AND CM APPL. 28951/2017

% **Judgment delivered on: 09.04.2019**

RELIANCE GENERAL INSURANCE COMAPANY LTD

..... Appellant

Through Mr. Joy Basu, Sr. Advocate with Ms.Prerna Mehta, Adv.

versus

DILPREET BHASIN & ORS ..... Respondents

Through Mr. Iqbal Singh, Adv. for R-1 & R-2.

CORAM:
HON'BLE MR. JUSTICE A.K.CHAWLA

J U D G M E N T

A.K. CHAWLA, J. (ORAL)

1. By the instant appeal, the appellant-insurer of Honda City Car bearing registration No. DL 13 CC 3773 in short 'the offending vehicle', which was involved in the motor accident on 21.11.2015, resulting in the death of Sachpreet Singh in short 'the deceased', in effect, assails the impugned judgment-award dated 26.05.2017 passed by MACT-II (North), restricted to the quantum of compensation. In view thereof, advertence to the other factual aspects to maintain the claim petition, is not called for.

2. Undisputedly, the deceased was aged about 25 years at the time of his

death. At the relevant time, he is said to be employed with M/s Ernst & Young, Golf View Corporate Tower, may be, as a Chartered Accountant. The tribunal has awarded the compensation to the claimants-respondent Nos. 1 and 2, as under :

"1.	Loss of dependency		Rs. 1,0448,797.50
2.	Loss of love and affection		Rs. 3,00,000/-
4.	Loss of estate		Rs. 50,000/-
5.	Funeral expenses		Rs. 50,000/-
		<u>Total</u>	<u>Rs.1,08,48,797.50</u>
		<u>Rounded off</u>	<u>Rs. 1,08,48,800/-</u>"

3. Mr. Basu, ld. Senior Counsel for the appellant, strenuously contends that the award of compensation under the primary head of loss of dependency, is erroneously founded taking the income of the deceased to be Rs.8,77,500/-. It comes to be pointed out that this figure of Rs.8,77,500/-, finds its origin in the appointment letter dated 11.11.2015 Ex.PW4/2, which, purportedly, was issued in close proximity of the occurrence of the incident, on 21.11.2015. In his submissions, but, for this appointment letter, the claimants-respondent Nos. 1 and 2, had miserably failed to adduce any cogent evidence to prove such sum to be the actual income of the deceased. In support of his such submissions, Mr. Basu, ld. Senior counsel, has also drawn advertence to Form-16 Ex.PW4/4, which is for the assessment year 2016-17 and takes into its fold the time of the accident in question. As per this Form 16 Ex.PW4/4, the total income, for which the taxes were deducted, was Rs.4,12,896/-. Mr. Basu, ld. Senior counsel for the appellant also strenuously contends that the figure of Rs.8,77,500/-, as finds mention

in the letter dated 11.11.2015 Ex.PW4/2, *ipso facto* also cannot be construed to be the actual income, inasmuch as, the communication dated 05.08.2015 Ex.PW4/1 of M/s Ernst & Young, by itself states that this figure of Rs.8,77,500/- is the cost to the company, which would have inbuilt elements towards certain allowance and costs, personal to the deceased.

4. Mr. Iqbal Singh, ld. Counsel for the respondent Nos. 1 and 2 on his part, but, for seeking to explain, placing reliance on letters Ex.PW4/1 and PW4/2, that the evidence adduced before the Tribunal, was sufficient to infer the income of the deceased to be Rs.8,77,500/-, is at pains to justify his submission. During the course of hearing, he has taken the Court to final settlement sheet Ex.PW4/6 purportedly issued by M/s Ernst & Young. When adverted to this document, one finds that this final settlement sheet reflects the gross earnings of the deceased to be Rs.1,01,482/-. Figure of gross earnings reflected in this final settlement sheet, by itself, does not co-relate with the actual income of Rs.8,77,500/-, as finds mention in the communications dated 05.08.2015 Ex.PW4/1 and dated 11.11.2015 Ex.PW4/2.

5. In the event, the deceased was actually paid an amount of Rs.8,77,500/- or a part thereof, as his income from salary, the claimants failed to adduce cogent evidence to that effect. The Tribunal, on its part, has not even adverted to what all evidence was adduced on record. In view thereof, the primary head of compensation being the loss of income/dependency and the assessment being not founded on any cogent evidence, lest, miscarriage of justice occurs, this Court deems it just and proper, to grant another opportunity to the parties to lead their respective

evidence to prove their respective claims/pleas on this main head of award of compensation. While doing so, it is also observed that the compensation awarded under the other heads is not in consonance with the ratio of the judgment in '***National Insurance Company Limited vs. Pranay Sethi and Ors***', 2017 SCC OnLine SC 1270 inasmuch as ***Pranay Sethi's*** case (supra) provides for compensation under the heads of consortium; loss of estate; and, funeral expenses in the sums of Rs.40,000/-, Rs.15,000/- and Rs.15,000/- respectively, only.

6. For the foregoing reasons, the impugned award, as regards the quantum of compensation, is set aside. Parties are directed to appear before the concerned Tribunal on **25.04.2019**, when, the Tribunal shall proceed to afford reasonable opportunities to the respondent Nos. 1 and 2 to lead evidence to prove the income of the deceased by cogent evidence, in addition to the evidence already adduced. Having afforded such opportunities, reasonable opportunity shall equally be given to the appellant-insurer to lead their evidence in defence and then, to claimants, in rebuttal, if, desired. Having afforded such opportunities, the Tribunal shall proceeded to give its findings afresh, taking into account the entire evidence adduced on record and conclude the proceedings within six months from today. Since the subject matter is being remanded back for re-assessment of compensation under all the heads, Mr. Basu, ld. Senior counsel for the appellant submits that the issue of multiplier may also be required to be gone into afresh. Mr. Iqbal Singh, ld. Counsel for respondent Nos. 1 and 2 on his part submits that the issue of deduction towards personal expenses of the deceased may also be kept open. Keeping in view the totality of the facts

and circumstances, it is made clear that all the pleas of the parties on the remand being made are kept open to be considered afresh by the Tribunal.

7. Appeal and the pending application(s) stand disposed off in the above terms. Statutory deposit with interest, if any, be released to the appellant.

A. K. CHAWLA, J

APRIL 09, 2019
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