$~2

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

% **<u>Date of Decision: 06th February, 2020</u>**

\+ MAC.APP. 854/2017 & CM Appl. 34550/2017

RELIANCE GENERAL INSURANCE COMAPNY LTD ..... Appellant

Through: Ms. Prerna Mehta, Advocate

versus

ISHWANTI & ORS ..... Respondents

Through: Mr. Parvesh Saroha, Adv. for R-1&3

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

<u>J U D G M E N T (ORAL)</u>

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.32,97,000/- has been awarded to respondents No.1 to 3. The appellant is seeking reduction of the award amount.

2. The accident dated 05th October, 2009 resulted in the death of Dayanand. The deceased was aged 51 years at the time of the accident and was survived by his widow and two sons. The deceased was working as a head constable in Delhi Police and was earning Rs.22,324/- per month at the time of the accident. The Claims Tribunal took the income of the deceased as Rs.22,324/- per month; added 15% towards future prospects; deducted 1/3rd towards personal expenses and applied the multiplier of 11 to compute the loss of dependency as Rs.29,46,768/-. The Claims Tribunal awarded Rs.1,50,000/- towards loss of love and affection; Rs.1,50,000/- towards loss

of consortium; and Rs.50,000/- towards loss to estate. Total compensation awarded is Rs.32,97,000/- (Rs.32,96,768/- rounded off).

3. Learned counsel for the appellant submits that there is arithmetical mistake in calculation of 15% of future prospects. It is submitted that the Claims Tribunal has wrongly calculated the 15% future prospects as Rs.11,162/- instead of Rs.3,349/-. Learned counsel for the respondents has no objection to the correction of this mistake. The future prospects are according reduced from Rs.11,116/- to Rs.3,349/-.

4. Learned counsel for the appellant further submits that the personal expenses of the deceased be reduced from 1/3rd to 1/2 , since the two sons of the deceased were not dependent upon the him. Learned counsel for the respondents submits that two sons of the deceased were dependent upon the deceased. Without prejudice, it is submitted that the personal expenses have been rightly computed by the Claims Tribunal. This Court is of the view that personal expenses of the deceased have been rightly taken as 1/3rd considering that the deceased has left behind three legal representatives.

5. Learned counsel for the appellants further submits that the compensation for loss of love and affection is not a permissible head and therefore, be set aside. It is further submitted that the compensation for loss of consortium and loss of estate be reduced. Learned counsel for the respondents submits that the compensation has been rightly computed by the Claims Tribunal. This Court is of the view that the respondents are entitled to compensation of Rs.50,000/- each for love and affection; Rs.40,000/- each towards loss of consortium and Rs.15,000/- towards loss of estate.

6. Taking the income of the deceased as Rs.22,324/- per month, adding 15% towards future prospects, deducting 1/3rd towards personal expenses

and applying the multiplier of 11, the loss of dependency is is computed as Rs.22,60,000/- (Rs.22,59,188.80 rounded off). Adding Rs.1,50,000/-; (Rs.50,000/- each) towards loss of love and affection; Rs.1,20,000/- (Rs.40,000/- each for loss of consortium) and Rs.15,000/- towards loss of estate. Total compensation computed as Rs.25,45,000/-.

7. The appeal is allowed and compensation awarded by the Claims Tribunal is reduced from Rs.32,97,000/- to Rs.25,45,000/- along with interest at the rate of 9% per annum from the date of institution. Pending application is disposed of.

8. The appellant has deposited the entire award amount with the Claims Tribunal in terms of order dated 20th September, 1997 out of which 30% amount has been released to the respondents and the balance amount is lying with the Claims Tribunal.

9. The Claims Tribunal is directed to transfer the balance amount along with interest with the Registrar General of this Court within three weeks.

10. List for disbursement of the amount on 27th March, 2020.

11. Both the parties shall submit the computation of the amount payable to the respondents in terms of this judgment on affidavit within three weeks.

12. Respondent No.1 shall remain present in Court on the next date of hearing along with passbook of her savings bank account near the place of her residence as well as PAN card and Aadhaar card. The respondents No.1 shall produce the copy of this order to the concerned bank, whereupon the bank shall make an endorsement on the passbooks of respondents No.1 that no cheque book and/or debit card shall be issued to respondents No.1 without the permission of this Court.

13. The statutory amount be refunded back to the appellant within four

weeks.

14. Copy of this judgment be sent to the Claims Tribunal for compliance.

15. The record of the Claims Tribunal be returned forthwith.

16. Copy of this judgment be given *dasti* to counsel for the parties under signatures of Court Master.

J.R. MIDHA, J.

FEBRUARY 06, 2020
ds