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

% ***Reserved on : 31.08.2022***
Pronounced on: 07.09.2022

\+ **MAC.APP. 267/2014**

RELIANCE GENERAL INSURANCE COMPANY
..... Appellant
Through: Ms. Prerna Mehta, Advocate.

versus

SMT ANILA RAJEEV & ORS ..... Respondents
Through: Mr. S.N. Parashar, Advocate for respondent Nos. 1 & 2.

CORAM:
HON'BLE MR. JUSTICE GAURANG KANTH

J U D G M E N T

GAURANG KANTH, J.

1. The present appeal has been preferred by the Appellant under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 30.11.2003 passed in MACT No. 328/2012 by the Court of learned Presiding Officer, Motor Accident Claims Tribunal-II, Dwarka Courts, New Delhi (hereinafter referred to as "***Impugned Award***").
2. By way of the impugned Award dated 30.11.2003 the learned Tribunal Awarded a compensation of Rs. 22,55,832/- with interest @ 7.5% per annum from the date of filing of the claim petition i.e. 09.07.2012 till realization and held that the Insurance Company is liable for payment of the awarded compensation to the claimants.

3. Ms. Prerna Mehta learned counsel for the Appellant restricted her arguments with regard to reduction of quantum of compensation on two heads i.e. deduction of Rs. 1,00,000/- towards '*Love and Affection*' and deduction of Rs. 1,00,000/- towards '*Loss of Consortium*'. Learned counsel for the Appellant further contended that in terms of the dicta of ***Hon'ble Supreme Court in National Insurance Co. Ltd Vs Pranay Sethi & Ors*** reported as ***2017 AIR (SC) 5157****,* the learned Tribunal erred in granting compensation of Rs.1,00,000/- towards '*Love and Affection*' and further erred in granting compensation of Rs. 1,00,000/- under the head '*Loss of Consortium*' and the same is to be calculated @ Rs. 40,000/- per legal heir.

4. Mr. S. N. Parashar, learned counsel appearing on behalf of the respondents/claimants fairly accepted that in terms of the dicta of the Hon'ble Supreme Court in the case of ***Pranay Sethi (supra),*** grant of compensation under the head '*Love and Affection*' has to be deducted from the total amount of compensation Awarded by the learned Tribunal, however, the grant of compensation under the head '*Loss of Consortium*' is fixed @ Rs. 40,000/- with an increase of 10% after a period of 3 years. Learned counsel further contended that in terms of ***Pranay Sethi (supra),*** compensation under the head '*Loss of Estate*' is required to be provided to the respondents/claimants, which has not been considered by the learned Tribunal.

5. In rebuttal, Ms. Prerna Mehta, learned counsel for the Appellant contended that the compensation for '*Loss of Estate*' has been merged by the learned Tribunal while granting compensation under the head '*Funeral Expenses*' and as such no separate compensation is to be awarded under the head '*Loss of Estate*.'

6. The arguments raised by the learned counsel for the parties are purely legal and based on the law settled by the Hon'ble Apex Court in ***Pranay Sethi (supra)***, which has held as under:-

> "*54. As far as the conventional heads are concerned, we find it difficult to agree with the view expressed in Rajesh. It has granted Rs. 25,000/- towards funeral expenses, Rs. 1,00,000/- loss of consortium and Rs. 1,00,000/- towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist. Though Rajesh refers to Santosh Devi, it does not seem to follow the same. The conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an acceptable criterion. Unlike determination of income, the said heads have to be quantified. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb Rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same and unless the thumb Rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to be unguided.*

> *Therefore, we think it seemly to fix reasonable sums.* ***It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively****. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric.* ***We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years"***
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> *(emphasis supplied)*

7. From the perusal of the aforesaid Judgment it is emphatically clear that for the conventional heads, namely, '*Loss of Estate', 'Loss of Consortium'* and *'Funeral Expenses*' the amount of compensation is fixed at Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/-, respectively with an increase of 10% after a period of 3 years. As far as grant of compensation under the head '*Love and Affection*' is concerned, this Court relies on the judgment of the Hon'ble Supreme Court in the case of ***United India Insurance Company Limited V Satinder Kaur alias Satwinder Kaur and Ors*** reported as ***(2021) 11 SCC 780***, which held that '*The Constitution Bench in Pranay Sethi, has recognized only three conventional heads under which compensation can be awarded viz. loss of estate, loss of consortium and funeral expenses. In Magma General, this Court gave a comprehensive interpretation to consortium to include spousal consortium, parental consortium, as well as filial consortium. Loss of love and affection is comprehended in loss of consortium*'.

8. The Hon'ble Supreme Court in the case of ***Satwinder Kaur (Supra)*** has further directed to '*award compensation for loss of consortium, which is a legitimate conventional head. There is no justification to award compensation towards loss of love and affection as a separate head*'. Accordingly, in terms of the law settled by the Hon'ble Supreme Court, the grant of compensation of Rs. 1,00,000/- under the head '*Love and Affection*' is unwarranted and deducted from the total compensation.

9. Learned counsel for the Appellant contended that the compensation for '*Loss of Estate*' has been merged by the learned Tribunal while granting compensation under the head '*Funeral Expenses*' and as such no separate compensation is to be awarded under the '*Loss of Estate*'. This Court after perusal of the record finds that this argument of learned counsel for the Appellants holds no ground as the claimants have produced the bills of actual expenses incurred by them for funeral expenses and as such grant of compensation under the head '*Funeral Expenses*' does not include grant of compensation under the '*Loss of Estate*'.

10. In view of the above discussion the impugned Award dated 30.11.2003 is modified to the following extent:

    (a) '*Loss of Consortium*' which is granted as Rs.1,00,000/- by learned Tribunal is modified as Rs.44,000 X 3 = Rs. 1,32,000/- to be paid to the respondents/claimants.

(b) '*Loss of Estate*' which has not been granted by the learned Tribunal is quantified as Rs. 16,500/- to be paid to the respondents/claimants.

(c) Compensation of Rs. 1,00,000/- paid under the head 'Loss of *Love and Affection*' is comprehended under the head '*Loss of Consortium*' and is deducted from the total amount Awarded by the Tribunal.

11. Accordingly, the computation of compensation by the learned Tribunal is modified as detailed above.

12. Registry is directed to release the balance amount alongwith interest to the respondents/claimants after taking into the account the modification of compensation made by the present order, within a period of 4 weeks after deducting the differential amount, if any with accrued interest thereon. The differential amount, if any, with accrued interest thereon may be released to the Appellant. The statutory deposit may also be released to the Appellant.

13. Appeal stands disposed of. No order as to costs.

GAURANG KANTH
(JUDGE)

SEPTEMBER 7, 2022
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