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

\+ MAC.APP. 633/2024

RELIANCE GENERAL INSURANCE CO. LTD. .....Appellant
Through: Mr. Pankaj Gupta, Advocate.

Versus

SH. VIVEK AND OTHERS .....Respondents
Through: Mr. Pankaj Kumar Dewal, Advocate for R1 to R3.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

O R D E R

% **13.01.2025**

REVIEW PET. 14/2025

1. The Review Petition under Section 114 read with Section 151 of the Code of Civil Procedure, 1908 (*hereinafter referred to as 'CPC'*) has been filed on behalf of the Applicants/Respondent Nos. 1 and 3 seeking review of the Order/Judgment dated 05.12.2024 passed by this Court *vide* which the Award dated 27.07.2024 passed by the learned Presiding Officer, Motor Accident Claims Tribunal has been modified and the compensation amount granted to the tune of Rs. 33,04,507/- has been reduced to Rs.30,86,000/-.

2. The ground of challenge is that the income of the deceased was less than the Minimum Wages and consequently, her income should be taken as per *Minimum Wages of skilled worker* and not as per salary provided by the Employer.

3. **Submissions heard**.

4. In the Appeal filed by the Appellant/Insurance Company, a ground of

challenge was raised that the learned Tribunal has erroneously assessed the Salary/Income of the deceased on the basis of the Salary slip.

5. The assessment of Income of the deceased has been considered in detail in Paragraph- 12 of the Impugned Order dated 05.12.2022. It was held as under: -

> *" 12. It is correctly agitated on behalf of the Appellant-Insurance Company that the salary of deceased Smt. Shweta was Rs. 14,289/- per month. The Salary Slip of deceased Smt. Shweta has also indicated that the salary was being calculated for a period of 26 days. It is evident from the Salary Slip itself that four days, being Sunday in a month, have been excluded while drawing the salary of deceased Smt. Shweta and only 26 days have been considered for salary.*
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> *13. The learned Claim Tribunal, therefore, fell in error in calculating the salary of deceased Smt. Shweta for 30 days @ Rs. 16,489/-, when, in fact, as per the Salary Slip, he was getting Rs. 14,289/- per month......"*

6. Thus, while addressing the above issue raised by the Appellant/Insurance Company, this Court has already assessed the income of the deceased on the basis of the evidence placed on record and has passed a well-reasoned Order.

7. The ground on which the present Review has been sought that the Income should have been ascertained on the basis of Minimum Wages is essentially an issue on the merits of the case, which is not permissible under Review Jurisdiction.

8. There is no merit in the present Review Petition, which is hereby dismissed.

9. The Review Petition is disposed of accordingly.

<u>CM APPL. 1600/2025 (seeking correction of the arithmetical error/calculation in the Order/Judgment dated 05.12.2024)</u>

10. An Application under Section 152 read with Section 151 of CPC, 1908, has been filed on behalf of the Appellant for correction of the arithmetical error in computing the loss of dependency, which comes to Rs.27,20,625.60 instead of Rs.29,20,671.60/-, as has been awarded by this Court.

11. Submissions heard.

12. The correct calculation for total loss of dependency comes to Rs.27,20,625.6/- and there is a typographical error mentioning the Total Loss of Dependency of the deceased.

13. Thus, it is directed that the amount for total loss of dependency *(rounded off)* be read as Rs.2**7**,21,000/- instead of Rs.2**9**,21,000/-.

14. ***The total compensation is calculated accordingly i.e.*** (Rs.27,21,000 + Rs.1,32,000/- + Rs.33,000/-) ***Rs.28,86,000/-*** .

15. The modified awarded amount be deposited within three weeks along with the corresponding interest.

16. With aforesaid modification in the Judgment dated 05.12.2024, the present Application is accordingly disposed of.

NEENA BANSAL KRISHNA, J

JANUARY 13, 2025/RS