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(2017) 12 DEL CK 0171

In the Delhi High Court

Case No : MAC. Appeal No. 1182 Of 2012

Reliance General Insurance Co Ltd APPELLANT

Vs

Renu Chaudhary & Ors RESPONDENT

Date of Decision : 06-12-2017

Acts Referred:

Citation : (2017) 12 DEL CK 0171

Hon'ble Judges : R.K.Gauba, J

Bench : Single Bench

Advocate : A.K. Soni

Final Decision : Disposed Of

Judgement

R.K.Gauba, J

1. Subodh Kumar, then aged less than 45 years old (born on 02.07.1965), working for gain in a private company (M/s Sona Koyo Steering Systems

Ltd.), suffered injuries in motor vehicular accident that occurred on 31.03.2010, due to negligent driving of Tractor bearing registration No. HR-29H-

7976 and died in consequence. His wife and three other members of the family dependent upon him (collectively, the claimants, being first to fourth

respondents) instituted accident claim case (Suit No.267/10) on 26.05.2010 seeking compensation.

2. The Tribunal, by its judgment dated 13.08.2012, held that the accident and death had been caused due to negligent driving of the said vehicle. It

awarded compensation in the total sum of Rs.55,75,000/-, directing the insurer (the appellant) of the offending vehicle to pay with interest @ 7.5% per

annum to the claimants, the said amount inclusive of Rs.10,000/- each towards funeral expenses, loss of consortium and loss to estate and Rs.25,000/-

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towards loss of love and affection.

3. The insurer, by the appeal at hand, questions the finding on the issue of negligence submitting that there was no evidence led in this regard. It also

questions, the calculation of loss of dependency on the ground, that the father (the fourth respondent) has been wrongly treated as dependent.

4. The learned counsel for the appellant has been heard and with his assistance, the record perused.

5. It is noted that the Tribunal has gone by the principle of res ipsa loquitur, taking into account the facts and circumstances relating to the accident,

there being no evidence led on the contrary by any of the party respondents. In these circumstances, the said finding does not call for any

interference.

6. The claimants had led evidence, inter alia, by examining the first of them, namely, Renu Chaudhary (PW-1), who deposed on the strength of her

affidavit (Ex.PW1/1) affirming the claim case. No effort was made at that stage to bring out any facts to show that the father could not be a claimant

on account of he being self reliant. Therefore, the question raised on account of loss of dependency is repelled.

7. It is, however, noted that the non-pecuniary damages awarded by the Tribunal are not in sync with the dispensation in a ruling of Constitution Bench

of the Supreme Court rendered on 31.10.2017 in SLP (C) 25590/2014, National Insurance Company Ltd. Vs. Pranay Sethi and Ors. Thus, in lieu of

the awards granted by the Tribunal, Rs.40,000/- towards loss of consortium and Rs.15,000/- each towards loss of estate and funeral expenses are

added. Consequently, the award would need to be increased by Rs.15,000/-. It is raised to Rs.55,90,000/- (Rupees Fifty Five Lakhs and Ninety

Thousand Only). Needless to add, it shall carry interest as levied by the Tribunal.

8. The argument about the breach of terms and conditions of the insurance policy on the ground that Tractor is an agricultural vehicle has been

properly dealt with by the Tribunal, particularly with reference to the admission of Sh. Navneet Goel (R3W1) examined by the insurer to the effect

that there is no requirement of any permit in respect of said vehicle. The plea is, thus, rejected.

9. By order dated 09.11.2012, the insurance company had been directed to deposit 80% of the awarded amount with up to date interest with UCO

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bank, Delhi High Court Branch. By order dated 29.04.2013, 50% of the deposited amount was permitted to be released to the claimants. The registry

shall release the balance lying in deposit with accrued interest to the claimants in terms of the judgment of the Tribunal. The insurance company shall

satisfy the enhanced amount by requisite deposit with the Tribunal within 30 days.

10. The statutory amount be refunded to the insurer after proof of award having been satisfied is shown.

11. The appeal stands disposed of in above terms.

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