

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

% **Date of Decision: 31st August, 2016**

+ **MAC.APP. 500/2016**

RELIANCE GENERAL INSURANCE CO LTD Appellant
Through: **Mr. A.K. Soni, Adv.**

versus

KARAMBIR TYAGI & ORS Respondents
Through: **Mr. S.N. Parashar, Adv. for R-1 and R-2**

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

JUDGMENT (ORAL)

CM 24074/2016

The appellant has deposited Rs.15,93,293/- with UCO Bank, Delhi High Court Branch on 29th August, 2016. The appellant has deposited further amount of Rs.29,685/- on 29th August, 2016.

The application is disposed of.

MAC.APP. 500/2016

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.14,58,270/- has been awarded to claimants/respondents no.1 and 2.
2. The accident dated 2nd June, 2014 resulted in the death of Ashwani Kumar Tyagi. The deceased was aged about 24 years at the time of the accident and was survived by his parents who filed the claim petition before the Claims Tribunal. The deceased was doing the business of supplying items to the hotels after completing B.Sc. (Hospitality and Hotel

Administration). The Claims Tribunal took minimum wages of a graduate i.e. Rs.11,310/-, added 50% towards future prospects, deducted 50% towards his personal expenses and applied the multiplier of 13 to compute the loss of dependency as Rs.13,23,270/-. The Claims Tribunal awarded Rs.1,00,000/- towards loss of love and affection, Rs.10,000/- towards loss of estate and Rs.25,000/- towards funeral expenses. Total compensation awarded is Rs.14,58,270/-.

3. Learned counsel for the appellant has urged at the time of the hearing that the future prospects should not be taken into consideration and the penal interest of 12% per annum be set aside as the appellant had filed the appeal before this Court.

4. This Court is of the view that the compensation awarded by the Claims Tribunal is just, fair and reasonable. This Court is of the view that since the educational qualifications and the occupation of the deceased were duly proved, the Claims Tribunal ought to have taken the potential income of the deceased instead of resorting to the minimum wages. In that view of the matter, the potential income of the deceased is taken equivalent to the minimum wages. As such, there is no infirmity in taking the future prospects of the deceased into consideration for computing the compensation.

5. There is merit in the second contention of learned counsel for the appellant that the penal interest of 12% be set aside since the appellant had preferred the appeal before this Court.

6. The appeal is partially allowed by setting aside the clause relating to the penal interest of 12% per annum imposed by the Claims Tribunal. However, the compensation of Rs.14,58,270/- along with interest @ 9% per annum from the date of the filing of the claim petition is upheld.

7. The appellant has deposited Rs.15,93,293/- towards the award amount

along with interest thereon. The appellant has also deposited the TDS amount of Rs.29,685/-.

8. UCO Bank, Delhi High Court Branch is directed to deposit Rs.29,685/- towards TDS with the Income Tax Department and issue the TDS certificate to Respondents no.1 and 2.

9. With respect to Rs.15,93,293/- deposited by the appellant, UCO Bank, Delhi High Court Branch is directed to keep Rs.14,50,000/- in fixed deposit in the following manner:

SR. NO.	DURATION OF FDR	<u>RESP. 1</u> FDR AMOUNT (RS.)	<u>RESP. 2</u> FDR AMOUNT (RS.)
1.	1 year	50,000/-	1,00,000/-
2.	2 years	50,000/-	1,00,000/-
3.	3 years	50,000/-	1,00,000/-
4.	4 years	50,000/-	1,00,000/-
5.	5 years	50,000/-	1,00,000/-
6.	6 years	50,000/-	1,00,000/-
7.	7 years	50,000/-	1,00,000/-
8.	8 years	50,000/-	1,00,000/-
9.	9 years	50,000/-	1,00,000/-
10.	10 years	-	1,00,000/-
TOTAL		4,50,000/-	Rs.10,00,000/-
GRAND TOTAL		14,50,000/-	

10. The balance amount after keeping Rs.14,50,000/- in FDRs be released to respondents No.1 and 2 in equal shares by transferring the said amount to their savings bank accounts.

11. Monthly interest on the FDRs be credited in the respective savings bank accounts of respondents No.1 and 2.

12. At the time of maturity, the fixed deposit amount shall be automatically credited in the savings bank accounts of the beneficiaries.
13. All the original FDRs shall be retained by UCO Bank, Delhi High Court Branch. However, the photocopies of the same shall be provided to the respondents no.1 and 2.
14. No cheque book or debit card be issued to the claimants/respondents no.1 and 2 without permission of this Court.
15. No loan or advance or pre-mature discharge shall be permitted without the permission of this Court.
16. The claimants/respondents no.1 and 2 shall approach the UCO Bank, Delhi High Court Branch for disbursement of the award amount in terms of this judgment.
17. UCO Bank, Delhi High Court Branch shall ensure that the savings bank accounts of respondents No.1 and 2 are individual accounts and not joint accounts.
18. The claimants/respondents no.1 and 2 are at liberty to approach this Court for release of further amount in case of any financial exigency.
19. The statutory amount be refunded back to the appellant.
20. Copy of this judgment be given *dasti* to learned counsel for the parties under signatures of Court Master.

J.R. MIDHA, J.

AUGUST 31, 2016

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