

\$~16

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

% *Judgment delivered on: 6<sup>th</sup> November, 2013*

+ MAC.APP. 907/2011

ROYAL SUNDARAM ALLIANCE INSURANCE  
CO LTD

..... Appellant

Represented by: Ms. Suman Bagga, Adv.

versus

LAJWANTI & ORS.

..... Respondents

Represented by: Mr. Saran Suri and  
Mr. Gunjan Kumar, Advs.

**CORAM:**  
**HON'BLE MR. JUSTICE SURESH KAIT**

**SURESH KAIT, J. (Oral)**

1. Instant appeal has been preferred against the impugned award dated 15.07.2011, whereby Id. Tribunal has awarded compensation for a sum of Rs.26,47,500/- with interest @ 7.5% per annum from the date of filing of the petition till the date of realization.

2. Ld. Counsel appearing on behalf of the appellant has argued that the deceased was 47 years of age at the time of accident, despite that Id. Tribunal has granted 50% towards future prospects.

3. To strengthen the arguments, ld. Counsel appearing on behalf of the appellant has relied upon *Rajesh and Ors. Vs. Rajbir Singh and Ors. 2013 (6) SCALE 563*.

Ld. Counsel appearing on behalf of the respondents / claimants do not dispute the legal proposition set by the counsel for the appellant.

4. Therefore, keeping in view the dictum of *Rajesh (Supra)*, I modify the impugned award and reduce the future prospects from 50% to 30%.

5. Ld. Counsel for the appellant has further argued that there were 3 dependents, i.e., wife and two sons as the daughter of the deceased already got married during the pendency of the petition and father of the deceased also died during the pendency of the petition. Therefore, ld. Tribunal should have deducted  $1/3^{\text{rd}}$  instead of  $1/4^{\text{th}}$  on account of personal expense.

6. Ld. Counsel appearing on behalf of the respondents / claimants does not dispute this issue also. Accordingly, I modify the award and deduct  $1/3^{\text{rd}}$  towards personal expenses instead of  $1/4^{\text{th}}$ .

7. Third issue argued by the ld. Counsel for the appellant is that claimants failed to prove the income of the deceased, despite that ld. Tribunal assessed Rs.15,000/- per month as income of the deceased.

8. On this issue, on perusal of the award and the record it is emerged that the deceased was working as an independent contractor and same has been proved vide letter dated 28.02.2008 Ex.PW1/6 issued by M/s. Offshore Infrastructure Ltd., address to deceased. Similarly, deceased had issued the bill of Rs.30,608/- to M/s. Offshore Infrastructure Ltd. A cheque for an

amount of Rs. 43,902/-, Ex.PW1/7 issued by the aforesaid company to the deceased, another copy of cheque for Rs.67,291/- of dated 07.05.2008 and the photocopy of the passbook of the deceased also placed on record showing his transaction and capacity to earn. Moreover, at the time of accident, the deceased was laying GI Pipeline in pursuance of a contract imparted by M/s. Off Shore Infrastructure Ltd. , being contractor. Though these facts have been disputed, but the appellant has not produced any material on record or examined any witness contrary to that. On this issue, I do not find any merit. Accordingly, instant appeal fails on this issue.

Hence, the compensation comes as under:

Income	:	Rs. 15,000/- p.m.
Future prospects 30%	:	Rs. 4,500/- p.m.
Personal expenses 1/3 <sup>rd</sup>	:	Rs. 6,500/- p.m.
Loss of dependency (13,000 x 12 x 13)	:	Rs.20,28,000/-
Loss of love and affection	:	Rs. 20,000/-
Loss of consortium	:	Rs. 25,000/-
Funeral expenses	:	Rs. 20,000/-
		_____
Total	:	Rs.20,93,000/-

Accordingly, the compensation amount granted is reduced from Rs.26,47,500 to Rs.20,93,000

9. Consequently, instant appeal is partially allowed and stands disposed of.

10. Vide order dated 28.02.2012, Rs. 4 Lakhs was directed to be released in favour of the respondent no. 1 for herself as well as for the benefit of other respondents / claimants. Therefore, Registrar General of this court is directed to release the balance compensation amount alongwith upto date interest accrued thereon in terms of order dated 15.07.2011 passed by learned Tribunal in favour of the respondents / claimants on taking necessary steps by them.

11. Statutory amount along with reduced compensation amount of Rs.5,54,500/- with proportionate interest be released in favour of the appellant.

**SURESH KAIT, J**

**NOVEMBER 06, 2013**

*jpg*