

‘NON-REPORTABLE’

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (C) NO(S).13931 OF 2017

NEW INDIA ASSURANCE CO. LTD. Petitioner (s)

Versus

VINISH JAIN AND ORS. ... Respondent(s)

WITH

SPECIAL LEAVE PETITION (C) NO(S).13932 OF 2017

NEW INDIA ASSURANCE CO. LTD. Petitioner (s)

Versus

VINISH JAIN AND ORS. ... Respondent(s)

CIVIL APPEAL NO. 2445 OF 2018

(@SPECIAL LEAVE PETITION (C) NO(S).13933 OF 2017)

NEW INDIA ASSURANCE CO. LTD. Appellant (s)

Versus

YOGESH JAIN AND ORS. ... Respondent(s)

J U D G M E N T

Deepak Gupta J.

1. These three cases are directed against the judgment dated 03.10.2016 whereby three appeals under the Motor Vehicles Act were disposed of by the High Court.

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2. This case is filed by Vinish Jain and others. It relates to death of one Alok Jain. Even as per the learned counsel for the petitioner if the judgment rendered by the Constitution Bench of this Court in ***National Insurance Co. Ltd. v. Pranay Sethi***¹ is applied, the difference in compensation is just about 5%.

3. This Court normally does not interfere where variation in the compensation is within the permissible limits. Therefore, the special leave petition is dismissed.

SLP (C) NO(S).13932 OF 2017

4. This case filed by Vinish Jain and others relates to death of one Kalpana Jain. Even as per the learned counsel for the petitioner if the judgment rendered by the Constitution Bench of this Court in ***Pranay Sethi*** (supra) is applied, the difference in compensation is just about 4%.

¹ (2017) 16 SCC 680

5. This Court normally does not interfere where variation in the compensation is within the permissible limits. Therefore, the special leave petition is dismissed.

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6. Leave granted.

7. This case relates to death of one A.P. Jain. He was 78 years of age. At the time of death, his annual income was assessed at Rs.3,64,500/-. The deduction made for personal expenses at 1/3 is very low keeping in view the fact that the claimants are his two major sons and two grand-daughters. The major sons have their own source of income and were not dependent on the deceased and the two grand-daughters are primarily dependent on their father and not on their grandfather. We are also of the view that the High Court has erred in granting Rs. 50,000/- as loss of love and affection to each of the claimants. The total compensation granted is Rs.14,39,980/- along with interest at the rate of 7.5% per annum.

8. We feel that 50% deduction is called for and if this factor is taken into consideration then the loss of dependency is Rs.1,82,250/- and if multiplier of 5 is used, the compensation works out to Rs.9,11,250/-. In addition, the claimants would be entitled to Rs.70,000/- for love and affection and funeral expenses etc. as per the judgment of this Court passed in the case of **Pranay Sethi** (supra). Accordingly, the amount of compensation is reduced to Rs.9,81,250/- along with interest awarded by the Tribunal.

9. Stay granted vide order dated 24.04.2017 stands vacated. The appeal is disposed of in the above terms. Pending applications, if any, shall also stand disposed of.

.....J.
(Madan B. Lokur)

.....J.
(Deepak Gupta)

New Delhi
February 23, 2018