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

**+MAC APPEAL 542/2009**

**Reserved on: 30.09.2011  
Pronounced on: 15.11.2011**

**NATIONAL INSURANCE CO. LTD. .... Appellant**  
Through: Mr. Pankaj Seth, Advocate.

Versus

**PURSHOTTAM SWAROOP & ORS. .... Respondents**  
Through: Mr. M.L. Khattar, Advocate

**CORAM:  
HON'BLE MR. JUSTICE M.L. MEHTA**

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|----|-----------------------------------------------------------------------|----|
| 1. | Whether Reporters of local papers may be allowed to see the judgment? | No |
| 2. | To be referred to the Reporter or not?                                | No |
| 3. | Whether the judgment should be reported in the Digest ?               | No |

**M.L. MEHTA, J.**

1. The challenge in this appeal is to the judgment and award dated 22.01.2009 of MACT whereby the Tribunal has awarded a compensation of Rs. 4,33,600/- to the respondent No, 1 herein in his claim petition 151/2007 which he had filed seeking compensation on account of death of his wife Poonam who was travelling with him as a pillion rider on his two wheeler scooter and was hit by a bus being driven by respondent No. 2 herein namely Azad Singh, in a rash and negligent manner. As a result of the accident, his wife fell down and sustained fatal injuries. The driver/respondent No. 2 ran away from

the spot. The offending vehicle was stated to be insured with the appellant, National Insurance Company. The Tribunal awarded total compensation of Rs. 4,66,300/- which was made up of Rs. 39,600/- on account of loss of dependency, Rs. 30,000/- on account of loss of love and affection, Rs. 5,000/- on account of funeral expenses and Rs. 5,000/- towards loss of estate. After making adjustment of Rs. 50,000/-, already paid to the respondent No. 1 as interim award, he was awarded a compensation of Rs. 3,83,600/-. The awarded compensation was directed to be paid by way of installments of Rs. 2050/- per month till the re-marriage/death of respondent No. 1 /claimant whichever is earlier. The appellant/insurer has impugned the said award mainly on the ground that payment of the awarded compensation by way of installments was contrary to law and the appellant could not be made custodian of the amount of compensation to be paid to the claimant/respondent No. 1 till his remarriage or death. The challenge is also made to the award of Rs. 30,000/- towards loss of love and affection and Rs. 5,000/- on account of funeral expense

2. With regard to the challenge to the award regarding payment of compensation in instalments, the learned counsel for respondent No. 1 concedes the awarded to be bad in law to that extent. He conceded that payment of awarded compensation in installments in

the manner as directed by the learned Tribunal was not only impractical but contrary to law in view of various judicial decisions.

3. The challenge to the payment of compensation of Rs. 30,000/- towards loss of love and affection and Rs. 5,000/- towards funeral expenses is not only misplaced, but shows insensitivity of the appellant company. These are conventional amounts which are awarded in the cases of fatal injuries. The award of Rs. 30,000/- and Rs. 5,000/- under these heads, in any way, cannot be said to be unreasonable. I do not find any merit in the challenge of the award on these counts.

4. In view of the above discussion, the impugned award is modified to the extent that the appellant/insurer shall pay the awarded amount of Rs.4,33,600/- to the respondent No. 1 after adjusting the amounts already paid to him by way of installments and Rs.50,000/- paid as interim relief, within one month from today without interest and thereafter with interest of 7.5% per annum till realization.

5. The appeal stands disposed of accordingly.

**M.L. MEHTA  
(JUDGE)**

November 15, 2011  
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