

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

Date of decision: March 08, 2017

+ MAC.APP. 155/2016

MAGMA HDI GENERAL INSURANCE CO LTD. Appellant

**Through: Mr. Navneet Kumar & Mr. Vikash
Bhadana, Advocates**

Versus

KUSUM & ORS. Respondents

**Through: Mr. S.N. Prashar, Advocate for
respondents No.1 to 6**

**CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR**

**JUDGMENT
ORAL**

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1. Impugned Award of 28th November, 2015 grants compensation of ₹13,74,960/- with interest @12% p.a. on account of death of one - *Virender Singh @ Birender*, in a road accident on 25th June, 2013. The facts are already noted in the impugned Award and so, needs no reproduction. Suffice to note that deceased, aged 44 years, was a driver on a private truck and he has left behind six legal heirs who are parents, widow, two daughters and a son. On the basis of evidence led, impugned Award has been rendered. The breakup of compensation awarded by Motor Accident Claims Tribunal (*hereinafter referred to as the "Tribunal"*) is as under:-

Loss of dependency/ contribution to the family	₹8,49,960/-
Loss of consortium	₹1,00,000/-
Loss of love and affection (₹50,000/- each for petitioners)	₹3,00,000/-
Loss of estate	₹50,000/-
Loss of expectancy of life	₹50,000/-
Funeral and transportation expenses	₹25,000/-
Total compensation	₹13,74,960/-

2. There is a limited challenge to the impugned Award in this appeal by learned counsel for appellant-Insurer. As per order of 4th November, 2016 service is complete. Learned counsel for appellant submits that the compensation awarded under the non-pecuniary heads is on the higher side and it needs to be suitably reduced in light of Supreme Court's decision in *Rajesh and Others v. Rajbir Singh and Others*, (2013) 9 SCC 54. It is further submitted that the interest awarded is also on the higher side and it needs to be appropriately reduced.

3. On the contrary, learned counsel for respondent-claimant supports the impugned Award and submits that no case for reduction of compensation granted is made out. Nothing else is urged on behalf of either side.

4. Upon hearing and on perusal of impugned Award, evidence of record and the decision cited, I find that compensation of ₹50,000/- granted under the head of loss of expectancy of life is unjustified, as

Supreme Court in a recent pronouncement in *Sandeep Khanuja V. Atul Dande* 2017 SCC Online SC 88 has reiterated that application of multiplier takes care of future prospects, advancement in life and cost of living etc. and so, compensation of ₹50,000/- granted under the head of loss of expectancy of life is set aside.

5. Supreme Court in *Asha Verman & ors. Vs. Maharaj Singh & ors.* (2015) 11 SCC 389 has granted compensation of ₹1,00,000/- under the head of “*loss of estate*” and in view thereof, compensation awarded to respondent-claimant under the “*loss of estate*” is enhanced from ₹50,000/- to ₹1,00,000/-. So far as compensation under the head of loss of love and affection is concerned, Supreme Court in *Neeta & ors. Vs. Divisional Manager, Maharashtra State Road Transport Corporation* 2015 ACJ 598 has granted ₹1,00,000/- each to the three children of deceased and ₹50,000/- each to the parents of deceased. Whereas in the impugned Award, under the head of loss of love and affection, ₹50,000/- has been granted to each of the six claimants and so, in view of Supreme Court's decision in *Neeta* (Supra), no case for reduction of compensation granted under the head of “*loss of love and affection*” is made out.

6. Consequentially, the modified compensation payable to claimants is reassessed as under:-

Loss of dependency/ contribution to the family	₹8,49,960/-
Loss of consortium	₹1,00,000/-
Loss of love and affection (₹1,00,000/ to parents and ₹50,000/- each to two daughters and a son)	₹2,50,000/-

Loss of estate	₹1,00,000/-
Funeral and transportation expenses	₹25,000/-
Total compensation	₹13,24,960/-

7. In the light of aforesaid, the compensation awarded by learned Tribunal is reduced from ₹13,74,960/- to ₹13,24,960/-. Supreme Court in its recent decision in *Shivakumar M. Vs. Managing Director, BMTC* 2017 SCC Online SC 148 has ruled that interest payable on the awarded amount is @ 9% p.a. This court finds that interest rate of 12% awarded in the instant case is on the higher side and in view of Supreme Court's decision in *Shiva Kumar (supra)*, rate of interest granted is reduced from 12% p.a. to 9% p.a.

8. During pendency of this appeal, appellant-Insurer had deposited the awarded amount with interest and as per order of 18th February, 2016, its 50% was directed to be released to respondents-claimants. The excess deposit of ₹50,000/- and differential interest amount deposited by appellant-Insurer be refunded to appellant with interest accrued thereupon. The modified awarded amount, as per this judgment be released to respondents-claimants in the manner, as indicated in the impugned Award.

9. With aforesaid directions, this appeal is disposed of.

(SUNIL GAUR)
JUDGE

MARCH 08, 2017

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