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

\+ MAC.APP. 229/2017 & CM No. 9314/2017

THE NEW INDIA ASSURANCE CO LTD ..... Appellant
Through: Mr. Parveen Kumar Mendiratta, Adv.

versus

NASEEM ASLAM & ORS ..... Respondents
Through: Mr. R.K. Bachchan, Adv. for R-1.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

<u>O R D E R</u>

% 16.05.2017

1. The Award dated 25.01.2017 passed in MACT No. 421/2012 and MACT New No. 15376/15 has been impugned on the ground that the amount of compensation awarded for the demise of wife of respondent no.1 is on the higher side. The compensation awarded to respondent no.1 for the demise of his ten month old daughter has not been impugned in the present appeal.

2. While computing compensation for the demise of wife of the claimant, the Tribunal took into consideration the fact that she had completed class Xth but had not passed the examinations for the said class i.e. she was considered a non-matriculate. Her age was taken to be 24-25 years as on the date of the accident since there was a difference in her age as per the high school certificate, election card and the post-mortem report produced before the Tribunal. Accordingly, on the minimum wage of a non-matriculate at Rs. 8008/- p.m. multiplier of 18 was applied, and loss of future prospects at the rate of 25% was added to it. Out of this, 50% was

deducted as the deceased had no surviving children and the claimant had since re-married, leaving an amount of Rs. 10,81,080/- as compensation for the accidental death of the wife. It is this addition of 25% towards loss of future prospects that has been challenged in the present petition by the insurer.

3. The Court notes that as per the judgment in the case of ***Sarla Verma (Smt.) & Ors. vs Delhi Transport Corporation & Anr. (2009) 6 SCC 121,*** the multiplier of 18 would be applicable, hence there is no error in applying the same multiplier in the present case.

4. The appellant argues that the grant of the loss of future prospects is not sustainable in view of the judgment of this Court in the case of ***Royal Sundaram Alliance Insurance Co. Ltd. vs. Manmeet Singh & Ors. (2012) ACJ 721***; that the loss of future prospects of 25% or 50%, as the case may be, would be applicable only in circumstances where the husband of the deceased does not re-marry. In the present case, the husband has re-married and has indeed now been blessed with a child. It is argued that the contribution of the deceased, which would otherwise have been restricted to 50% of her deemed income, with the addition of 25% in the event of non-marriage of the husband is not be so in this case since their child also died in the accident.

5. The aforesaid argument is untenable because it overlooks a very important element apropos compensation i.e. the re-marriage would not take away the fact that there had been a wife whose life was lost in the accident along with the life of their ten month old child. A bereaved husband's remarriage does not result in replacement of his wife. The loss of the first wife would remain with him all his life. Spouses are not chattel where one

replaces the other. By taking on a new marital partner both parties embark on an emotional, physical and intelligent journey together. The new bond is worked upon every day to strengthen and sustain it for a lifetime. Each spouse contributes to the marriage in his/ her own way. In this case the claimant's loss is twice over i.e. as a husband and as a father. His irreparable emotional and psychological loss cannot be lost sight of. It needs to be justly compensated.

6. In these circumstances, the Court finds no reason to reduce the addition of 25% towards loss of future prospects. The Rs. 25,000/- compensation granted towards love and affection is niggardly and the same is enhanced to Rs. 1.50 lacs. Similarly, the compensation for loss of consortium is enhanced to Rs. 25,000/- from Rs. 10,000/-. The appeal has unnecessarily entailed expenses towards litigation to the claimant. Accordingly, the amount of statutory deposit of Rs. 25,000/- shall be released to the claimant.

7. The appeal is disposed off in the above terms.

NAJMI WAZIRI, J

MAY 16, 2017/kk