

\$~42

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

+ **MAC.APP. 329/2016, CM APPL. 14313/2016**

NATIONAL INSURANCE CO LTD

..... Appellant

Through: Mr. L.K. Tyagi, Adv.

versus

SOM WATI DEVI & ORS

..... Respondent

Through: Mr. Mohit Madan, Adv. for R-1 to 4.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

%

23.05.2017

This appeal has impugned the non-pecuniary damages awarded to respondent Nos. 1 to 4 in a motor accident case which resulted in the death of one Ram Singh. The Court had awarded non-pecuniary damages as under:

“Compensation under the non-pecuniary heads

In view of the judgement Kala Devi and Others Vs. Bhagwan Das Chauhan and others, 2014 ACJ 2875, petitioners are also entitled to Rs. 100,000/- for loss of consortium, Rs. 25,000/- for funeral expenses, Rs. 100,000/- to each child for loss of love and affection and Rs.100,000/- towards loss to estate.

In Neeta and Others Vs. Div Manager MSRTC,

Kolhapur (2015) 3 Supreme Court cases 590, also Rs. 100,000/- was awarded to each child for loss of love and affection and further an amount of Rs.50,000/- each was awarded to the parents of the deceased for the loss of love and affection of their deceased son. Rs. 100,000/- each was awarded towards loss of consortium and loss of estate.

In *Kalpanaraj and Others Vs. Tamil Nadu State Transport Corporation* 2014 ACJ 1388, apart from awarding amount on account of love and affection, loss of consortium, loss of estate and other expenses, Rs. 50,000/- was awarded towards funeral expenses and Rs. 100,000/- was awarded towards loss of expectation towards life.

Besides this, petitioners are also entitled for compensation under the following heads :-

Love and affection (children)	Rs. 200,000/-
Love and affection (Mother)	Rs. 50,000/-
Loss of Consortium	Rs. 100,000/-
Loss of Estate	Rs. 100,000/-
Funeral expenses	Rs. 25,000/-
Total	Rs. 4,75,000/-”

Relying on the case of ***Rajesh and Ors. v. Rajbir Singh & Ors.*** (2013) 9 SCC 54 where the Court had awarded non-pecuniary damages of Rs. 1.00 lakh for loss of consortium and Rs.25,000/- for funeral expenses,

the learned counsel for the appellant states that the non-pecuniary damages awarded in this case is on a higher side. The court notes that as in **Rajesh** (Supra) identical amounts have been awarded in this case i.e. Rs.1.00 lakh for loss of consortium and Rs.25,000/- for funeral expenses. However, the Court has also awarded Rs.1.00 lakh each to the two children of the deceased towards loss of love and affection to them and Rs.50,000/- to his father for loss of love and affection. A composite amount of Rs.1.00 lakh towards loss of estate has also been awarded. The loss of love and affection for each child is his/her personal loss and needs to be compensated individually. The Courts finds that the compensation awarded is just and proper.

The rate of interest awarded @9% per annum has also been questioned on the ground that the interest rate should be as per the rate given on fixed deposits for one year. The learned counsel argued that since period of limitation for filing the appeal is 90 days; therefore, interest @12% p.a. after expiry of 30 days is not applicable. The Court finds no merit in the said contention because statutory period available for preferring the appeal would not take away the rigour of the order i.e. interest @9% within 30 days; failing which interest @12% p.a. There is no merit in the appeal. It is dismissed.

The statutory deposit shall be released to the respondent Nos. 1 to 4 as costs towards this appeal.

NAJMI WAZIRI, J

MAY 23, 2017/acm