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

\+ **MAC.APP. 391/2017 & CM Nos.15512-13/2017**

ORIENTAL INSURANCE CO LTD. ..... Appellant
Through: Mr. R.K. Tripathi, Advocate.
Versus
VIJAY LAXMI SHARMA & ORS. ..... Respondents
Through: None.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

O R D E R

% 25.04.2017

This appeal impugns the Award dated 09.01.2017 on the ground of it awarding excessive compensation for the following heads:-

S. No.	Particulars	Amount (in Rs.)
1	Loss of Love and Affection	Rs. 1,50,000/-
2	Loss of Consortium to the petitioner no.1	Rs. 1,50,000/-
3	Funeral Expenses	Rs. 50,000/-
4	Loss of Estate	Rs. 50,000/-

There is no statutory limit for awarding compensation under any of the above heads. The Supreme Court in ***Mr. R.D. Hattangadi Vs. M/s Pest Control (India) Pvt. Ltd. & Ors, AIR 1995 SC 755*** held that:-

"1.2. While fixing an amount of compensation payable to a victim of an accident, the damages have to be assessed separately as pecuniary damages and special damages. Pecuniary damages are those which the victim has actually incurred and which is capable of being calculated in terms of money, whereas non-pecuniary damages are those which are

incapable of being assessed by arithmetical calculations. In order to appreciate the two concepts, pecuniary damages may include expenses incurred by the claimant on account or : (i) medical attendance (ii) loss of earning of profit upto the date or trial; (iii) other material loss. So far as non-pecuniary damages are concerned, they may include (i) damages for mental and physical shock, pain and suffering, already suffered or likely to be suffered in future; (ii) damages to compensate for the loss of amenities of life which may include a variety or matters i.e. on account of injury the claimant may not be able to walk, run or sit; (iii) damages for the loss of expectation of life, i.e. on account of injury the normal longevity of the person concerned is shortened; (iv) inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life.

1.3. Whenever a tribunal or a court is required to fill the amount of compensation in cases of accident, it involves some guess work, some hypothetical consideration, some amount of sympathy linked with the nature of the disability caused. But all these elements have to be viewed with objective standards."

In ***Common Cause, A Registered Society Vs. Union of India, AIR 1996 SC 3538***, the Supreme Court held that:-

" The object of an award of damages is to give the plaintiff compensation for damage, loss or injury he has suffered. The elements of damage recognised by law are divisible into two main groups: pecuniary and non-pecuniary. While the pecuniary loss is capable of being arithmetically worked out, the non-pecuniary loss is not so calculable. Non-pecuniary loss is compensated in terms of money, not as a substitute or replacement for other money, but as a substitute, what Mcgregor says, is generally more important than money: it is the best that a court can do. In Re: The Medianna (1900) A.C. 1300, Lord Halsbury L.C. observed as under:

> *"How is anybody to measure pain and suffering in moneys counted? Nobody can suggest that you can by arithmetical calculation establish what is the exact sum of money which would represent such a thing as the pain and suffering which a person has undergone by reason of an accident...But nevertheless the law recognises that as a topic upon which damages may be given."*

In the circumstances of the case, the Court is of the view that the loss of love and affection and loss of consortium and companionship as awarded is just. These losses would be more acute in a metropolis like Delhi where there is a larger dependency within a nuclear family than in a joint family and in cases where there is more neighbourhood affinity as is generally seen in the smaller towns or villages. The compensation of Rs.50,000/- on account of funeral expenses too is in keeping in mind the present day costs and inflation. It cannot be considered as ‘excessive’ in Delhi; often the last rites as conducted in the ancestral village or town of the deceased, hence, transportation and other costs are incurred in such instances. The award for loss of estate for a similar amount too is reasonable. It has been so held by this Court in ***Shriram General Insurance Co. Ltd. v. Usha & Ors.*** [MAC Appeal No. 160/2015, decided on 05.05.2016].

In view of the above, the Court does not find any reason to interfere with the impugned Award. The appeal alongwith pending application is accordingly dismissed.

The statutory amount of Rs.25,000/- be returned to the appellant.

NAJMI WAZIRI, J.

APRIL 25, 2017/sb