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

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Date of Decision: 27th July, 2018

+ MAC.APP. 1120/2017

22 MAGMA HDI GENERAL INSURANCE
CO LTD

..... Appellant

Through: Mr.Ved Vyas Tripathi and
Ms.Vidisha Kanoria, Advocates

versus

DEVKI DEVI & ORS

..... Respondents

Through: Mr.Peeush Sharma and Mr. Bharvi
Thakur, Advocates for R-1 & R-2

+ MAC.APP. 328/2018

46 DEVKI DEVI & ORS

..... Appellant

Through: Mr.Peeush Sharma and Mr. Bharvi
Thakur, Advocates for R-1 & R-2

versus

MAGMA HDI GENERAL INSURANCE
CO LTD

..... Respondents

Through: Mr.Ved Vyas Tripathi and
Ms.Vidisha Kanoria, Advocates

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The parties have challenged the award of the Claims Tribunal

whereby the compensation of Rs.10,41,000/- has been awarded to the claimants. The appellant in MAC APP.1120/2017 is seeking reduction, whereas the appellants in MAC APP.328/2018 are seeking enhancement of compensation amount.

2. The accident dated 13th May, 2014 resulted in death of Balam Singh. The deceased was aged 56 years at the time of accident and was survived by his widow and two sons who claimed compensation. The deceased was working as Security Supervisor at a salary of Rs.15,500/- per month.

3. The Claims Tribunal took the minimum wages of Rs.8,554/- as income of the deceased, deducted 1/3rd towards his personal expenses and applied the multiplier of 9 to compute the loss of dependency as Rs.6,15,888/-. The Claims Tribunal awarded Rs.25,000/- towards medical expenses, Rs.1,50,000/- towards loss of love and affection, Rs.1,50,000/- towards loss of consortium, Rs.50,000/- towards loss of estate and Rs.50,000/- towards funeral expenses. The total compensation awarded is Rs.10,41,000/-.

4. Learned counsel for the appellant in MAC APP.1120/2017 urged at the time of hearing that loss of love and affection is no more a permissible head. It is further submitted that loss of consortium be reduced to Rs.40,000/- and loss of estate and funeral expenses be reduced to Rs.15,000/- each in terms of principles laid down in ***National Insurance Co. Limited vs. Pranay Sethi and Ors.*** 2017 SCC Online SC 1270.

5. Learned counsel for the appellant in MAC APP.328/2018 urged at the time of hearing that income of the deceased be taken as Rs.15,500/- per month which was duly proved by his appointment letter, Ex.PW3/2 and the salary slip for the month of April, 2014. It is further submitted that the future

prospects of 10% be awarded in terms of principles laid down in *National Insurance Co. Limited vs. Pranay Sethi and Ors.* (supra).

6. There is merit in the contentions urged by learned counsel for both the parties. The loss of love and affection is no more a permissible head and therefore, compensation of Rs.1,50,000/- awarded under the head of loss of love and affection is liable to be set aside. The compensation for loss of consortium, loss of estate and funeral expenses is liable to be reduced to Rs.70,000/- in terms of *Pranay Sethi* (supra). With respect to the income of the deceased, the deceased was a security supervisor working in M/s Smart Rangers Pvt. Ltd. and appointment letter, EX.PW3/2 and the attested copy of the salary slip for the month of April, 2014 have been duly proved. The claimants are entitled to future prospects of 10% in terms of principles laid down in *National Insurance Co. Limited vs. Pranay Sethi and Ors.* (supra).

7. Taking the income of the deceased as Rs.15,500/- per month, adding 10% towards future prospects, deducting 1/3rd towards personal expenses, and applying multiplier of 9, the loss of dependency is computed as Rs.12,27,600/-. Rs.40,000/- is awarded towards loss of consortium, Rs.15,000/- is awarded towards loss of estate and Rs.15,000/- is awarded towards funeral expenses. The Claims Tribunal has awarded medical expenses of Rs.25,000/- whereas medical expenditure of Rs.25,354/- was duly proved before the Claims Tribunal. Adding Rs.25,354/- towards medical expenses, total compensation is computed as Rs.13,22,954/-

8. Both the appeals are allowed. However, the compensation awarded by the Claims Tribunal is enhanced from Rs.10,41,000/- to Rs.13,22,954/- along with interest at the rate 9% per annum from the date of institution i.e. 27th August, 2014.

9. The appellant in MAC APP.1120/2017 is directed to deposit the enhanced award amount along with up to date interest with the Registrar General of this Court within four weeks.
10. The appellant would be entitled to the recovery rights in terms of the award of the Claims Tribunal after depositing the enhanced award amount.
11. The statutory amount be refunded back to the appellant after deposit of enhanced award amount.
12. List for disbursement of enhanced award amount on 28th September, 2018.
13. The claimant No.1 shall remain present in Court along with the passbook of her savings bank account near the place of residence.
14. Copy of this judgment be given *dasti* to counsel for both the parties under signature of Court Master.

JULY 27, 2018
ds

J.R.MIDHA, J.

भारतमेव जयते