*　　IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: July 17, 2018

\+　　**MAC.APP. 1058/2016 & CM 46171/2016**

NATIONAL INSURANCE CO LTD .....Appellant
Through: Ms. Rakhi Dubey, Advocate

Versus

JYOTI & ORS. .....Respondents
Through: Mr. Anupam Yashovardhan, Advocate for respondents No. 1-3

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

1. Impugned Award of 20th October, 2016 grants compensation of ₹29,95,882/- with interest @ 10% p.a. to respondents-claimants on account of death of one *Manish*, aged 25 years in a vehicular accident on 12th September, 2014.

2. The factual background of this case, as noticed in the impugned Award, is as under:-

> *"In the present claim petition U/Sec. 166 & 140 M.V. Act, the case of Petitioner is that on 12.09.2014, deceased Manish was going with his friend on motorcycle and at Jhajjar Bye-pass they were hit by Car bearing No. DL-8CY-0041 driven by Respondent No. 1/Sonu in rash and negligent manner and as a result of the same Sh. Manish was killed."*

3. On the basis of evidence led, impugned Award has been rendered by Motor Accident Claims Tribunal *(henceforth referred to as "the Tribunal")* and the breakup of compensation awarded is as under:-

1.) Loss of dependency	:	₹25,20,882/-
2.) Loss of love and affection to children	:	₹2,00,000/-
3.) Loss of consortium	:	₹1,00,000/-
4.) For Funeral expenses	:	₹25,000/-
5.) Loss of estate	:	₹1,00,000/-
6.) Loss of Love and affection towards Parent	:	₹50,000/-
Total	:	₹29,95,882/-

4. The challenge to impugned Award by learned counsel for appellant-Insurer is on the ground that addition of 50% towards *'future prospects'* granted by the Tribunal is unjustified. Learned counsel for Insurer submits that compensation granted under the *"non-pecuniary heads"* is on the higher side and in light of Supreme Court's Constitution Bench decision in *National Insurance Company Ltd. Vs. Pranay Sethi & ors.* (2017) 16 SCC 680, it needs to be suitably reduced and the rate of interest ought to be 9% and not 10% as awarded by the Tribunal.

5. On the contrary, learned counsel for Claimants supports the impugned Award and submits that the compensation awarded is just and fair and so, this appeal deserves to be dismissed.

6. Upon hearing and on perusal of impugned Award and the evidence on record, I find that Tribunal has assessed the income of the deceased on minimum wages payable to a matriculate and has added 50% towards *'future prospects'*. In view of Supreme Court's decision in *Pranay Sethi (Supra),* I find that the addition towards *'future prospects'* has to be 40%

and not 50%. Accordingly, the *'loss of dependency'* is re-assessed as under:

₹ 10,374/- X 12 X 18 X 140/100 X 3/4 = ₹ 23,52,823/-

7. As regards compensation granted under the *'non pecuniary heads'*, it needs to be brought in tune with Constitution Bench decision of Supreme Court in *Pranay Sethi (supra).* Accordingly, compensation granted by the Tribunal under the head of *'loss of love & affection'* is disallowed and compensation under the *'loss of consortium'* is reduced from ₹1,00,000/- to ₹40,000/-, '*funeral expenses'* are also reduced from ₹25,000/- to ₹15,000/- and the compensation under the head of '*loss of estate'* also stands reduced from ₹1,00,000/- to ₹15,000/- .

8. In light of the aforesaid, the compensation payable to Claimants is reassessed as under:-

S.No.	Description	Amount
1.	Loss of Dependency	₹23,52,823/-
2.	Loss of Consortium	₹40,000/-
3.	Funeral Expenses	₹15,000/-
4.	Loss of Estate	₹15,000/-
	Total	₹24,22,823/-

9. Consequentially, the compensation amount payable to respondent-Claimants stands reduced from ₹29,95,882/- to ₹24,22,823/-. The modified compensation be released forthwith to Claimants in ratio and manner as indicated in the impugned Award. Statutory deposit along with excess deposit be refunded to Insurer.

10. With aforesaid directions, this appeal and the application are disposed of.

(SUNIL GAUR)
JUDGE

JULY 17, 2018
v