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

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Decided on: 31.10.2019

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MAC.APP. 265/2018 & CM No. 9338/2018

RAMESH CHAND & ORS

..... Appellants

Through: Mr. Anshuman Bal, Adv.

versus

NATIONAL INS CO LTD AND ORS

..... Respondents

Through: Ms. Seema Gulati, Adv.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J (Oral)

1. The appellant impugns the award of compensation, insofar as it has carried out deductions from the income of the deceased twice over. The notional income of the deceased was taken as Rs. 7,605/- instead of Rs. 10,140/- i.e. minimum wage payable to a non-matriculate. There are a total of ten claimants of whom six were financially dependent upon him. Therefore, the quantum of personal deduction ought to have been 1/4th.

2. Furthermore, the deceased was 56 years of age at the time of the motor accident. In addition he would be entitled to 10% towards loss of future prospect as per dicta of the Supreme Court in *National Insurance Co. Ltd. v. Pranay Sethi & Ors*, (2017) 16 SCC 680.

3. Accordingly, the 'loss of dependency' shall be calculated as under:

Rs. 10,140/- (minimum wages) x 12 (months) x 9 (multiplier) x 75/100 (1/4th deduction towards personal expenses) x 110/100 (loss of future prospects) = Rs. 9,03,474/-

4. The Court would note that appellant nos. 1 to 9 are all children of the deceased, of whom only six were financially dependent upon him. Nevertheless, each of the claimants including those not financially dependent on the deceased, being his children would be entitled to and are granted non-pecuniary compensation towards “loss of love and affection” and “loss of consortium” @ Rs. 50,000/- and Rs. 40,000/- respectively as per the dicta of the Supreme Court in ***Magma General Insurance Co. Ltd. vs. Nanu Ram @ Chuhru Ram & Ors.***, 2018 SCC OnLine SC 1546. Additionally, compensation towards 'Loss of Estate' and 'Funeral Expenses' shall also be payable @ Rs. 15,000/- under each of the heads as per the decision of the Supreme Court in ***Pranay Sethi*** (*supra*). Accordingly, the total payable amount would be as under:

S.No.	Particulars	Amount
1.	Loss of Dependency [Rs. 10,140 (minimum wages) x 12 (months) x 9 (multiplier) x 75/100 (deduction towards personal expenses) x 110/100 (loss of future prospects)]	Rs. 9,03,474/-
2.	Loss of love and affection [Rs. 50,000 x 10 (claimants)]	Rs. 5,00,000/-
3.	Loss of consortium [Rs. 40,000 x 10 (claimants)]	Rs. 4,00,000/-

4.	Loss of Estate	Rs. 15,000/-
5.	Funeral Expenses	Rs. 15,000/-
TOTAL		Rs. 18,33,474/-
Less (amount already awarded by learned Tribunal) [Rs. 18,33,474/- less Rs. 7,47,560/-]		Rs. 10,85,914/-

5. Let the enhanced amount of Rs. 10,85,914/- alongwith interest @ 9% from the date of the filing of the claim petition till its realization be deposited before the learned Tribunal, within three weeks from date of receipt of copy of this order, to be disbursed to the beneficiaries of the Award, in terms of the scheme of disbursement specified therein. Since the accident happened in the year 2015, compensation awarded towards “loss of love and affection” and “loss of consortium” shall be awarded to each of the claimants right away who have now attained the age of majority.

6. The appeal is disposed-off in the above terms.

OCTOBER 31, 2019

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NAJMI WAZIRI, J