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

% *Decided on: 06.11.2019*

\+ **MAC.APP. 863/2019 & CM APPL. 48247/2019**

NATIONAL INSURANCE CO LTD ..... Appellant
Through: Mr. Manu Shahalia, Advocate.

versus

RICHA BHATNAGAR & ORS ..... Respondents
Through: Mr. S.N. Parashar, Advocate for R-1 & R-2.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J (Oral)

CM APPL. 48248/2019 (Exemption)

1. Exemption allowed, subject to all just exceptions.

2. The application stands disposed-off.

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3. Issue notice.

4. The learned counsel named above accepts notice on behalf of the respondents.

5. At joint request, the appeal is taken up for disposal.

6. The appellant impugns the award of compensation dated 23.07.2019 passed by the learned MACT in MACP No. 1021/16, on the ground that instead of 1/3rd deduction towards 'personal expenses', the Award has erred in deducting only 1/4th.

7. The error is apparent in the facts set up by the claimants. In particular, the evidence by way of affidavit of the widow, reads as under:-

> *"5. That my husband/deceased was educated and can earn a lot in future but due to the sudden death of my husband I alongwith my minor daughter are deprived with the love and affection of the deceased as well as financial loss. Copy of ITRs of the deceased are marked herewith as Mark-A alongwith copy of Identity Card and Educational Certificate of the deceased are marked herewith as Mark- 'B' & 'C' respectively,*
>
> *6. <u>I say that my in-laws family are not dependent upon the earning of my husband</u>. Copy of the ITRs of my in-laws is marked herewith as Mark-'D'."*
>
> *<u>(emphasis supplied)</u>*

8. The said statement of the widow was not controverted by in-laws i.e. the mother of the deceased or his father. In the circumstances, the number of dependents being merely 3 and the deduction ought to have been 1/3rd and not 1/4th. It is, therefore, directed that the deduction of 1/3rd shall be applied while calculating 'loss of dependency'.

9. The Court would note that each of the claimants, including the father, would be entitled to non-pecuniary compensation towards 'loss of love and affection' and 'loss of consortium' @ Rs. 50,000/- and Rs. 40,000/- respectively, in terms of the dicta of the Supreme Court in ***Magma General Insurance Co. Ltd. vs. Nanu Ram @ Chuhru Ram & Ors.***, 2018 SCC OnLine SC 1546. It is so granted. Additionally, compensation towards 'Loss of Estate' and 'Funeral Expenses' shall also be granted @ Rs. 15,000/- under each of the heads, in terms of dicta of the Supreme Court in ***National Insurance Company Ltd. vs Pranay Sethi & Ors.*** (2017) 16 SCC 680. It is so granted.

10. Accordingly, the amount payable to the claimants is as under:

S.No.	Particulars	Amount
1.	Loss of Dependency [Rs. 24,260/- (income of the deceased) x 12 (months) x 17 (multiplier) x 140/100 (loss of future prospects) x 66.6/100 (1/3rd deduction towards personal expenses)]	Rs. 46,14,485/-
2.	Loss of love and affection [Rs. 50,000/- x 4 (claimants)]	Rs. 2,00,000/-
3.	Loss of consortium [Rs. 40,000/- x 4 (claimants)]	Rs. 1,60,000/-
4.	Loss of Estate	Rs. 15,000/-
5.	Funeral Expenses	Rs. 15,000/-
	TOTAL	**Rs. 50,04,485/-**

11. Let the aforesaid amount, alongwith interest accrued thereon @ 9% from the date of the filing of the Claim Petition till its realization, be deposited by the insurer within three weeks of receipt of a copy of this order, to be released to the beneficiaries of the Award in terms of the scheme of disbursement specified therein.

12. The appeal stands disposed-off in the above terms.

13. The statutory amount, alongwith interest accrued thereon, be returned to the appellant.

NAJMI WAZIRI, J

NOVEMBER 06, 2019/RW