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

% *Decided on: 09.10.2019*

\+ MAC.APP. 815/2019, CM APPL. 44502/2019 & CM APPL. 44503/2019

THE ORIENTAL INSURANCE CO LTD ..... Appellant

Through: Mr. Pradeep Gaur, Advocate.

versus

RINKU DEVI & ORS ..... Respondents

Through:

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal impugns the award of compensation dated 02.07.2019 passed by the learned MACT in New No. 49365-16 on the ground that it has erred in not granting the right of recovery, despite the driving licence of the driver of the offending vehicle having been found to be fake in view of the evidence led by the insurer.

2. The Court would note that the impugned order has dealt with the aforementioned issue elaborately, inasmuch as the owner had stated that he had seen the licence of the driver and tested the driver's driving skills before he was employed. The driving licence appeared to be genuine. But the vehicle owner went a step further, he had the driving licence duly verified by the Issuing Authority. Evidently, he could not have done anymore than

this. His prudence is evident. It is another matter though that after the accident, upon another examination it was found that both, the driving licence and its verification were fake. Be that as it may, the duty and requirement of the owner, as per the dicta of the Supreme Court in ***United India Insurance Co. Ltd. vs. Lehru & Ors.,*** (2003) 3 SCC 338, is only to see that the driver had a driving licence which appeared to be genuine and that he possessed the requisite skills and that he was tested for his driving skills before being employed to drive the vehicle.

3. This exercise having been carried out by the insured/owner of the vehicle, he is duly covered and protected. Therefore, there is no reason to modify the impugned order, on this ground.

4. At this stage, the Court would note that the claimants have not been granted any compensation towards 'loss of love and affection' which is a factor to be taken into consideration on the ground for compensation under non-pecuniary head.

5. The learned counsel for the appellant submits that the compensation under non-conventional head has been limited to Rs. 70,000/- in terms of the dicta of the Supreme Court in ***Cholamandalam M/S General Insurance Co. Ltd. Vs. Aarifa & Ors.,*** bearing Civil Appeal No. 6020 of 2019. The learned counsel for the appellant further submits that the said order has relied upon the judgment of the Supreme Court in ***National Insurance Co. Ltd. vs. Pranay Sethi & Ors.***, (2017) 16 SCC 680, to hold that the compensation under non-conventional heads could not be more than Rs. 70,000/-.

6. The Court is of the view that in other cases passed by the Supreme Court after ***Pranay Sethi (supra)***, it has fixed the compensation towards 'loss of love and affection' @ Rs. 50,000/- and compensation towards 'loss of consortium' @ Rs. 40,000/- for each of the claimants as laid down in terms of the dicta of Supreme Court in ***Magma General Insurance Co. Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.*** 2018 SCC OnLine SC 1546.

7. In view of the aforesaid order, the compensation towards 'loss of love and affection' @ Rs. 50,000/- to each of the claimants is hereby granted.

8. The enhanced amount of Rs. 2,00,000/-, alongwith interest accrued thereon @ 9% from the date of filing of the claim petition till its realization, shall be deposited before the learned Tribunal within three weeks from the date of receipt of copy of this order, to be released to the beneficiary(ies) of the Award in terms of the scheme of disbursement specified therein.

9. The statutory amount, alongwith interest accrued thereon, shall be deposited into the 'AASRA' Fund, opened in Delhi High Court.

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

NAJMI WAZIRI, J

OCTOBER 09, 2019

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