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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 02nd August, 2019

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MAC.APP. 156/2018

THE NEW INDIA ASSURANCE CO LTD Appellant

Through: Mr.Anshum Jain, Mr.Kshitiz Garg,
Advocates

versus

DHARAM PAL & ORS Respondents

Through: Mr.Nitin Yadav, Advocate for
Respondents No.1 to 3.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

J U D G E M E N T (O R A L)

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.43,42,000/- has been awarded to the claimants. The appellant is seeking reduction of the award amount.
2. The accident dated 19th June, 2017 resulted in the death of Ajay Kumar. The deceased was aged 20 years at the time of the accident and was survived by his parents and an unmarried sister. The deceased was working as a Senior Executive and he was earning Rs.19,500/- per month at the time of the accident. The Claims Tribunal took the income of the deceased as Rs.19,500/- per month, added 50% towards future prospects, deducted 1/3rd towards personal expenses and applied the multiplier of 18 to compute the loss of dependency as Rs.42,12,000 /-. The Claims Tribunal awarded Rs.1,00,000/- towards loss of love and affection, Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses. The total compensation awarded is Rs.43,42,000/-.

3. Learned counsel for the appellant urged at the time of the hearing that the personal expenses of the deceased be reduced from 1/3 to 1/2 considering that the deceased was unmarried. It is further submitted that the compensation for loss of love and affection is no more permissible head. Reliance is placed on *National Insurance Co. Limited v. Pranay Sethi*, 2017 ACJ 2700 (SC).

4. It is well settled that in case of death of unmarried persons, the personal expenses of the deceased have to be taken as 1/2. In that view of, the personal expenses of the deceased are reduced from 1/3 to 1/2.

5. The Claims Tribunal has awarded Rs.1,00,000/- towards loss of love and affection which is no more a permissible head. Reference be made to *Pranay Sethi* (supra). The compensation for loss of love and affection is therefore, set aside.

6. Taking the income of the deceased as Rs.19,500/- per month, adding 50% towards future prospects, deducting 50% towards personal expenses and applying the multiplier of 18, the loss of dependency is computed as Rs.31,59,000/-. Adding 15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses, the total compensation is computed as Rs.31,89,000/-.

7. The appeal is allowed and the compensation amount is reduced from Rs.43,42,000/- to Rs.31,89,000/- along with interest @ 9% per annum from the date of institution of the claim petition i.e. 27th July, 2017.

8. The appellant deposited Rs.45,66,832/- with the Registrar General of this Court in terms of order dated 09th February, 2018. The Accounts Officer of this Court shall compute the amount payable to respondents No.1 to 3 in terms of this judgment on the date of the deposit.

9. List for hearing with respect to the recovery rights and disbursement of the balance compensation amount to the claimants on 13th September, 2019.
10. Copy of this judgment be given *dasti* to counsel for the parties under the signature of the Court Master.

AUGUST 02, 2019
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J.R. MIDHA, J.

