KAMLESH KUMAR

16.10.2019 12:15

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

% *Decided on: 13.09.2019*

\+ MAC.APP. 460/2019

SMT. PRAKASHVATI & ANR. ..... Appellants

Through: Mr. S.N. Parashar, Advocate.

versus

SH. MAHMOOD HASAN & ORS. ..... Respondents

Through: Mr. A.K. Soni, Advocate for R-4.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. Process fee has not been filed. Ordinarily, the case should be dismissed for non-prosecution. However, Mr. S.N. Parashar, the learned counsel for the appellants, states that he has informed the learned counsel for respondent no. 4. The said respondent is represented by counsel. Nevertheless, for the above mentioned non-compliance, the appellant shall pay costs of Rs. 1,000/- which shall be deposited in the 'AASRA' fund within one week from the date of receipt of this order. In case of non-filing of proof of deposit of the cost, the Registry shall list the case for directions.

2. The award of compensation dated 15.10.2018 passed in MACT No.293/18 has been impugned on the ground that 'loss of future prospects' @10% had not been granted when the same is due in view of the fact that the deceased was above the age of 55 years at the time of accident and his entitlement is assured in terms of dicta of Supreme Court in ***National Insurance Co. Ltd. vs. Pranay Sethi & Ors.***, (2017) 16 SCC 680. The appellants are right. There shall be an addition of 10% to the amount of compensation granted under 'loss of dependency' i.e., Rs. 64,178/- shall be payable on this account. For compensation towards 'loss of consortium', only Rs. 40,000/- has been awarded. Therefore, in terms of the dicta of the Supreme Court in ***Magma General Insurance Co. Ltd. vs. Nanu Ram Alias Chuhru Ram & Ors.*** 2018 SCC OnLine SC 1546, each of the claimants are entitled and granted Rs. 40,000/- and Rs. 50,000/- compensation respectively towards 'loss of consortium' and 'loss of love and affection'. The additional amount payable would be as under:-

S.No.	**Particulars**	**Amount**
1.	Loss of love and affection Rs.50,000 x 2 (claimants)	Rs. 1,00,000/-
2.	Loss of consortium Rs.40,000 x 2 (claimants) less Rs.40,000/- already granted	Rs. 40,000/-
3.	Loss of future prospects	Rs. 64,178/-
TOTAL		**Rs.2,04,178/-**

3. Let the additional/enhanced amounts be deposited before the learned Tribunal within three weeks from the date of receipt of copy of this order for release to the beneficiaries of the award in terms of scheme

of disbursement as specified therein. The additional amounts shall also carry the same rate of interest as specified in the Award.

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

5. A copy of this order be given *dasti* to learned counsel for both the parties under the signature of the Court Master.

NAJMI WAZIRI, J

SEPTEMBER 13, 2019
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HIGH COURT OF DELHI
सत्यमेव जयते