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

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Decided on: 12.09.2019

+ MAC.APP. 146/2018, CM APPL. 4558/2018 & CM APPL. 4560/2018

CHOLAMANDALAM MS GENERAL INSURANCE CO TLD

..... Appellant

Through: Mr. Pankaj Gupta, Advocate for Ms.
Suman Bagga, Advocate.

versus

SANJEEV KUMAR & ORS

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. The appellant impugns the award of compensation dated 14.09.2017 passed by the learned MACT in MACT No. 4778/16 on the ground that the non-pecuniary amounts totalling to a sum of Rs. 5,09,820/- for the minor, is same as the composite amount computed for pecuniary damages and includes the notional compensation for loss of future prospects. The learned Tribunal was of the view that in the facts of this case the grant of non-pecuniary amounts would be equivalent to the pecuniary amounts in order to ensure grant of “just compensation”. It holds as under:-

“ 23. Non-pecuniary damage:- It was observed by Hon'ble Delhi High Court in case titled 'Chetan Malhotra' (supra) that a

composite sum equal to the amount computed as pecuniary loss to estate may be added as non-pecuniary damage (inclusive of conventional compensation and for future prospects), in such cases as at hand to arrive at the appropriate figure of 'just compensation.'”

2. Accordingly, the claimants were awarded Rs. 5,09,820/- towards non-pecuniary losses.
3. The learned counsel for the appellant relies upon the dicta of the Supreme Court in ***R.K. Malik and Anr Vs. Kiran Pal and Ors*** (2009) 14 SCC 1 to state that the non-pecuniary amount should be to the extent of Rs. 75,000/-. Furthermore, he relies upon the dicta of the Supreme Court in ***National Insurance Co. Ltd. v. Pranay Sethi & Ors.*** (2017) 16 SCC 680. However, the court finds no standing in such contention of the appellant and is of the view that the award of compensation is just and cannot be faulted.
4. The Court would note that pursuant to ***Magma General Insurance Co. Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.*** 2018 SCC OnLine SC 1546, each of the claimants is also entitled to compensation towards ‘loss of consortium’ and ‘loss of love and affection’ @Rs.40,000/- and Rs. 50,000/-, respectively. The same is granted to them. Additionally, the compensation towards ‘loss of estate’ and ‘funeral expenses’ is also granted @ Rs. 15,000/- under each head, in terms of ***Pranay Sethi (supra)***. Therefore, the amount payable is Rs.40,000/-x2+ Rs. 50,000/-x2+Rs. 15,000/-+Rs. 15,000/- = Rs. 2,10,000/-.
5. Let the aforesaid amount be deposited by the appellant before the learned Tribunal, within three weeks from the 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.

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

7. Statutory amount, alongwith interest accrued thereon, shall be deposited into the 'AASRA' Fund.

NAJMI WAZIRI, J

SEPTEMBER 12, 2019

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