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

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Decided on: 07.11.2019

+ MAC.APP. 204/2015

THE ORIENTAL INSURANCE CO LTD Appellant

Through: Mr. J.P.N. Shahi, Advocate.

versus

KAMAL KUMAR MASIH & ORS

..... Respondents

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

+ MAC.APP. 234/2019

KAMAL KUMAR MASIH

..... Appellant

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

versus

THE ORIENTAL INS CO LTD & ORS

..... Respondents

Through: Mr. J.P.N. Shahi, Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. These appeals impugn the award of compensation dated 02.01.2015 passed by the learned MACT in Suit No. 452/14. MAC.APP. 204/2015 filed by the insurance company impugns the award of compensation primarily on the ground that compensation towards 'loss of dependency', 50% has been granted towards 'loss of future prospects', whereas in terms of the dicta of the Supreme Court in *National Insurance Co. Ltd. v. Pranay Sethi & Ors* (2017) 16 SCC 680, it ought to have been 40%.

2. The aforesaid contention is readily conceded to by the learned counsel for the claimants. In the circumstances, compensation towards 'loss of dependency' shall be Rs. 60,000/- + Rs. 24,000/- (40% future prospects) =Rs. 84,000/-x18(multiplier)=Rs. 15,12,000/-.

3. Apropos MAC.APP. 234/2019, the aggrieved father of the young deceased is entitled to non-pecuniary compensation towards 'loss of love and affection' and 'loss of consortium' @ Rs. 50,000/- and Rs. 40,000/- each, respectively, in terms of the dicta of the Supreme Court in *Magma General Insurance Co. Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.* 2018 SCC OnLine SC 1546. The same is granted to him. He shall also be entitled to compensation towards 'Loss of Estate' and 'Funeral Expenses' @ Rs. 15,000/-, in terms *Pranay Sethi (supra)*. The same is also granted to him.

4. The amount payable to the appellants/claimants in MAC. APP. 234/2019 is as under:-

S.No.	Particulars	Amount
1.	Loss of Dependency	Rs. 15,12,000/-
2.	Loss of love and affection [Rs. 50,000/- x 1 (claimant)]	Rs. 50,000/-
3.	Loss of consortium [Rs. 40,000/- x 1 (claimant)]	Rs. 40,000/-
4.	Loss of Estate	Rs. 15,000/-
5.	Funeral Expenses	Rs. 15,000/-
	TOTAL	Rs. 16,32,000/-

5. Excess amount, if any, in terms of the aforesaid order shall be deposited before the learned Tribunal @9% from the date of filing of the Claim Petition till its realization, 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.

6. The appeals are disposed-off in the above terms.

7. Since the appellant has succeeded in appeal being MAC.APP. 204/2015, the statutory amount, alongwith interest accrued thereon, be returned to it.

NOVEMBER 07, 2019

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NAJMI WAZIRI, J



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