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

% *Judgment delivered on: 03.09.2019*

+ **MAC.APP. 299/2017**

BHARTI AXA GENERAL INSURANCE CO LTD Appellant

Through: Ms. Arunima Dwivedi, Ms. Preeti
Kamra Nanda and Ms. Pinky Pawar,
Advocates.

versus

RAM AVATAR MITTAL & ORS Respondents

Through:

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J (Oral)

MAC.APP. 299/2017 & CM APPL. 11636/2017

1. This appeal impugns the award of compensation dated on 17.12.2016 passed in MACP No. 1311/16 on the ground that the deceased was 72 years of age on the date of the accident and his children were not dependant on him. It is, however, not in dispute that in the claim petition, each of the children had claimed to be dependent upon their deceased father. Nothing adverse has been brought on record to dispute their claim of dependency.

2. The Court is also conscious of the fact that mere attainment of the age of majority by itself does not confer financial self-sufficiency on an individual. There is no such economic magic happening to 18 year olds. Similarly, no presumption in law can be made about the financial

independence of a daughter, simply because she has been married-off. A married daughter like a married son may well be facing genteel poverty or financial constraints for which the married children could well be supported financially, by their parents or other siblings. In view of the above, the appellant's argument is untenable and is accordingly rejected.

3. The next contention is that the amounts paid towards 'loss of estate' is erroneous. The Court is of the view that the award of Rs. 1,00,000/- is on a higher side. In terms of *National Insurance Co. Ltd. v. Pranay Sethi & Ors.* (2017) 16 SCC 680 it is reduced to Rs. 15,000/-. Furthermore, Rs. 25,000/- granted towards 'loss of funeral expenses' is reduced to Rs. 15,000/-. However, in terms of *Magma General Insurance Co. Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.* 2018 SCC OnLine SC 1546, the claimants are entitled to and are granted compensation @ Rs. 40,000/- and Rs. 50,000/- each towards 'loss of consortium' and 'loss of love and affection', respectively.

4. In other words, the amounts payable to the claimants would be as under:

S.No.	Particulars	Amount
1.	Loss of Dependency	Rs. 7,64,815/-
2.	Medical Treatment	Rs. 5,765/-
3.	Loss of love and affection [(50,000x6) (claimants)]	Rs. 3,00,000/-
4.	Loss of parental consortium [(40,000x6) (claimants)]	Rs. 2,40,000/-
5.	Loss of estate	Rs. 15,000/-
6.	Loss of funeral expenses	Rs. 15,000/-
	Total	Rs. 13,40,580/-

5. Let the aforesaid amounts along with awarded interest at the rate mentioned in the impugned order from the date of the filing of the DAR i.e. 07.08.2015, be released to the beneficiaries of the award in terms of the scheme of disbursement specified therein. The impugned amount already lies deposited in this Court. Let the freshly computed amount in terms of this order be released to the beneficiaries of the award in terms of the scheme of disbursement specified therein.
6. Statutory amount of Rs. 25,000/- alongwith interest accrued thereon be refunded to the appellant.
7. The appeal alongwith pending application is disposed-off in the above terms.

SEPTEMBER 03, 2019
AB

NAJMI WAZIRI, J

नात्यमेव जयते