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

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*Decided on: 27.09.2019*

+ MAC.APP. 605/2018

SARTAJ & ORS

..... Appellants

Through: Mr. D.K. Sharma, Advocate.

versus

BAHADUR SINGH & ORS (SBI GENERAL INSURANCE CO LTD )

..... Respondents

Through: Mr. Sameer Nandwani and Mr.  
Deepanshu Arora, Advocates for  
insurance company.

**HON'BLE MR. JUSTICE NAJMI WAZIRI**

**NAJMI WAZIRI, J. (Oral)**

CM APPL. 43537/2019 (for early hearing)

1. This application seeks early hearing of the appeal.
2. For the reasons mentioned in the application, it is allowed.
3. The application stands disposed-off.

MAC.APP. 605/2018

4. At joint request, the appeal is taken up for disposal.
5. This appeal impugns the award of compensation dated 31.05.2017 passed by the learned MACT in MACT Case No.449242/16 on the ground that the requisite amounts under non-pecuniary heads have not been granted.

Furthermore, the amount for pecuniary compensation too is on the lesser side.

6. The deceased was 49 years of age on the date of the accident. Since no proof of income was brought on record, he was considered by the Tribunal as an unskilled daily wager. Therefore, the notified daily wage of an unskilled worker i.e. Rs. 7,254/- was made applicable. It was further submitted that he has eight dependants, therefore, deduction of 1/5<sup>th</sup> ought to have been applied instead of 1/4<sup>th</sup>. The contention is valid, the dependency is larger, therefore, the personal deduction is altered to 1/5<sup>th</sup>. Additionally, in terms of the dicta of the Supreme Court in **National Insurance Co. Ltd. vs. Pranay Sethi & Ors.**, (2017) 16 SCC 680, each of the claimants would also be entitled to compensation towards 'loss of future prospects' @ 25%. The amount of pecuniary loss payable shall be as under:

$$\text{Rs. } 7,250 \times 12 \times 13 \times 80 / 100 \times 125 / 100 = \text{Rs. } 11,31,000/-$$

7. Apropos the 'funeral expenses' and 'loss of estate' which have been awarded at Rs. 25,000/- and Rs. 50,000/- respectively, the same are reduced to Rs. 15,000/- each in terms of **Pranay Sethi (supra)**. Furthermore, each of the claimants shall be entitled to and are granted compensation towards 'loss of love and affection' and 'loss of consortium' @ Rs. 50,000/- and Rs. 40,000/- respectively, in terms of the decision of the Supreme Court in **Magma General Insurance Co. Ltd. vs. Nanu Ram @ Chuhru Ram & Ors.**, 2018 SCC OnLine SC 1546.

8. Thus, the total amounts payable would be as under:

| S.No.        | Particulars                                                                                                                                                             | Amount                 |
|--------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| 1.           | Loss of dependency Rs. 7,250/- (minimum wage)x12(months)x13(multiplier)x80/100(1/5 <sup>th</sup> deduction towards personal expenses)x125/100(loss of future prospects) | Rs. 11,31,000/-        |
| 2.           | Loss of love and affection Rs. 50,000/- x8(claimants)                                                                                                                   | Rs. 4,00,000/-         |
| 3.           | Loss of consortium Rs. 40,000/-x8(claimant)                                                                                                                             | Rs. 3,20,000/-         |
| 4.           | Funeral expense                                                                                                                                                         | Rs. 15,000/-           |
| 5.           | Loss of estate                                                                                                                                                          | Rs. 15,000/-           |
| <b>TOTAL</b> |                                                                                                                                                                         | <b>Rs. 18,81,000/-</b> |

9. Therefore, the total payable amount to the claimants shall be Rs. 18,81,000/-. The awarded amount is stated to have been deposited before the learned MACT. Let the enhanced amount of Rs. 6,57,000/-, alongwith interest @ 9% from the date of filing of the claim petition till its realization, be deposited by the insurer/R-3 within three weeks of receipt of copy of this order before the learned Tribunal, to be released to the beneficiaries of the award in terms of the scheme of disbursement specified therein.

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

**NAJMI WAZIRI, J**

**SEPTEMBER 27, 2019**

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