

\$~10

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

% *Decided on: 24.09.2019*

+ MAC.APP. 474/2018, CM APPL. 20498/2018 & CM APPL. 14722/2019

UNITED INDIA INSURANCE COMPANY LIMITED

..... Appellant

Through: Ms. K. Enatoli Sema and Mr. Amit Kumar Singh, Advocates.

versus

MANJU & ORS

..... Respondents

Through: Mr. Basant Gupta, Advocate for R-1 to R-5.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J (Oral)

1. This appeal impugns the award of compensation dated 31.01.2018 passed by the learned MACT in MACT No. 450324/16 on the ground that there is an error in computation of the compensation towards 'loss of dependency' as well as in the award of compensation for non-pecuniary loss.
2. The impugned order has assessed the income of the deceased at Rs. 12,000/-. The Court would note that two Salary Certificates were produced by the claimants from the claimed employers of the deceased, namely G.D.S Society and M/s Suraj Education Centre of I.T. Both the Salary Certificates established salary of the deceased as Rs. 4,600/- per month each, however, neither of the Salary Certificate

was proven nor were the employers called or their records examined. In the circumstances, the said certificates could not form the basis of assessment of income as Rs. 12,000/-. In any case, even if, the two certificates are taken together, the cumulative salary comes to be Rs. 9,200/-. Therefore, the assumption of the income as Rs. 12,000/- is without basis and the same is set aside.

3. It is not disputed that the deceased was a Graduate and held a degree in B.A. from Kurukshetra University as well as a diploma from TATA Infotech Education. In the circumstances, the minimum wages notified for a Graduate would be applicable which was Rs. 4,443/- at the relevant time and the computation of compensation towards 'loss of dependency' shall be on that basis. The deceased had five dependants, hence, the deduction towards personal expenses would be $\frac{1}{4}^{\text{th}}$. The claimants would also be entitled to compensation towards 'loss of future prospects' @ 40% in terms of dicta of Supreme Court in *National Insurance Co. Ltd. vs. Pranay Sethi & Ors.*, (2017) 16 SCC 680.
4. The Court would note that the claimants have been awarded non-pecuniary compensation as under:
 - i) Rs. 15,000/- towards 'Loss of Estate'.
 - ii) Rs. 15,000/- towards 'Funeral Expenses'.
 - iii) Rs. 40,000/- towards 'Loss of Consortium'.

The aforesaid amounts have been granted in terms of *Pranay Sethi (supra)*. However, in terms of the latter judgment of the Supreme Court in *Magma General Insurance Co. Ltd. vs. Nanu Ram @ Chuhru Ram & Ors.*, 2018 SCC OnLine SC 1546, each of the claimants shall be entitled to

and are granted compensation towards 'loss of love and affection' @ Rs. 50,000/- and compensation towards 'loss of consortium' @ Rs. 40,000/-, be it spousal, filial or parental.

5. In the circumstances, the amount payable by the insurance company is as under:

S.No.	Particulars	Amount
1.	Loss of Dependency [Rs. 4,443/- (minimum wage) x 12 (months) x 17 (multiplier) x 140/100 (loss of future prospects) x 75/100 (1/4 th deduction towards personal expenses)]	Rs. 9,51,690/-
2.	Loss of Love and Affection [Rs. 50,000/- x 5(claimants)]	Rs. 2,50,000/-
3.	Loss of Consortium [Rs. 40,000/- x 5(claimants)]	Rs. 2,00,000/-
4.	Loss of Estate	Rs. 15,000/-
5.	Funeral Expenses	Rs. 15,000/-
	Total	Rs. 14,31,690/-

6. Accordingly, the aforesaid amount of Rs. 14,31,690/-, alongwith interest @ 9% from the date of filing of the petition i.e. 07.07.2008 till its realization shall be deposited before the learned Tribunal within three weeks of copy of receipt of this order for the same to be released to the beneficiary(ies) of the award in terms of the scheme of disbursement specified therein.

7. The impugned amount has been deposited before this Court. Let the amounts due to the claimants be released to them in terms of the scheme of disbursement specified in the Award.

8. The widow of the deceased is present in the Court and states that till date she has received no monies. The Court would note that in terms of the Award, Rs. 1,00,000/- was directed to be paid to Smt. Manju, widow of the deceased. Let the same be released to her, if not already done, directly into her bank account no. 1793603837, Central Bank of India, Sukhpura Chowk, Rohtak, Haryana.
9. Since the appellant has partly succeeded in the appeal, let the statutory amount, alongwith interest accrued thereon, be refunded to the appellant.
10. The appeal is allowed and disposed-off in the above terms.

SEPTEMBER 24, 2019

AB

NAJMI WAZIRI, J

न्यायमेव जयते