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

% *Decided on: 18.09.2019*

\+ MAC.APP. 765/2018

SHANTI DEVI & ANR ..... Appellants

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

versus

HARI OM & ORS (RELIANCE GENERAL INS CO LTD) ..... Respondents

Through: Mr. A.K. Soni and Mr. Pavan Kumar, Advocates for insurance company.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J (Oral)

1. The appellant seeks enhancement of the award of compensation dated 19.03.2018 passed by the learned MACT in MACP No. 5656/2016 on the ground that the deceased albeit a minor i.e. 17 years and 8 months old at the time of his demise, was a matriculate. At about 4:00 a.m. in the morning of 21.02.2015 after finishing his work, the deceased was returning home alongwith his other co-workers when he met with the accident, in front of Fisrat Farm House. He was a matriculate, therefore, the minimum wages applicable to a matriculate ought to have been applied.

2. The deceased being a matriculate was proven, by the production of the Marksheet issued by the Central Board of Secondary Education, Delhi, Ex. PW-2/2. The same is not disputed. Keeping in mind the spirit of the Motor Vehicles Act, 1988, in particular section 166 which is a socially beneficial legislation and mandates payment of just compensation, the beneficial aspects of the circumstances obtaining to the claimant should be made applicable. Therefore, the minimum wages applicable to a matriculate at the time of the accident i.e. Rs. 10,478/- per month ought to have been and is hereby applied for calculation of 'loss of dependency'.

3. The deceased was under 18 years of age, but working for gain for monetary remuneration. His being a minor should not come in the way of compensation being awarded to a minor, when actual earnings by such minor are established. Since nothing adverse has come on record apropos his being employed or working as claimed, the contention shall be accepted. A multiplier of 18 would be applicable. There would be an addition of 40% towards 'loss of future prospects' in terms of ***National Insurance Co. Ltd. vs. Pranay Sethi & Ors.***, (2017) 16 SCC 680 and a deduction of half the amount towards his personal expenses, since he was a bachelor. The amount payable would be Rs. 10,478 x 12 x 18 x 140/100 x 50/100 = Rs. 15,84,273/-. Furthermore, the claimants being the parents, shall each be entitled to compensation towards 'loss of love and affection' and 'loss of filial consortium' at the rate of Rs. 50,000 and Rs. 40,000/- respectively, in terms of ***Magma General Insurance Co. Ltd. vs. Nanu Ram @***

Chuhru Ram & Ors., 2018 SCC OnLine SC 1546. The same is granted.

4. The claimants are also entitled to and are granted Rs. 15,000/- each for 'Loss of Estate' and 'Funeral Expenses'. Thus, the total enhanced amount payable shall be Rs. 6,80,274/-.

5. The learned Tribunal had awarded Rs. 11,14,000/-, which alongwith interest accrued thereon, has been deposited by the insurer. Let the aforementioned enhanced amount be deposited within three weeks from the date of receipt of copy of this order by the insurer alongwith interest @ 9% from the date of filing of the claim petition till its realization, before the learned Tribunal, to be released 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.

NAJMI WAZIRI, J

SEPTEMBER 18, 2019

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