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

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Decided on: 30.10.2019

+ MAC.APP. 1066/2013 & CM APPL. 12660/2014

NATIONAL INSURANCE CO. LTD. Appellant

Through: Mr. Pankaj Seth, Advocate.

versus

RAM KUMAR GOYAL & ORS

..... Respondents

Through:

CORAM:**HON'BLE MR. JUSTICE NAJMI WAZIRI****NAJMI WAZIRI, J (Oral)**

1. The award of compensation dated 21.09.2013 passed by the learned MACT in Suit No. 12/2012 is impugned on the ground that: i) deduction towards 'personal expenses' has been considered as 1/3rd whereas it should have been 50%, while computing 'loss of dependency' of the deceased bachelor and ii) 'loss of future prospects' @ 50% has been granted instead of 40% in terms of the dicta of the Supreme Court in ***National Insurance Co. Ltd. vs. Pranay Sethi & Ors.***, (2017) 16 SCC 680. The deceased was less than 40 years of age, therefore, for a presumed self-employed person, 40% should be awarded towards 'loss of future prospects'. It is so granted.
2. The Supreme Court in terms of the dicta of ***Pranay Sethi (supra)*** has referred to its own decision in ***Reshma Kumari vs. Madan Mohan***, (2009) 13 SCC 422 which has referred to the decision in ***Sarla Verma vs. Delhi Transport Corporation***, (2019) 6 SCC 121 and held as under:

“Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be dependent and earning, or remarried, or be dependent on the father.”

3. In effect, the father would have to prove that he was dependant upon the son and the deduction of 1/3rd from the earnings of the bachelor would be justified only in case where the mother and other younger siblings are evidently dependant upon the deceased bachelor. The impugned order does not record any such dependency, therefore, its conclusion of deduction of 1/3rd is erroneous and is set aside.
4. There shall be a deduction of 50% of the earnings of the deceased for calculation of ‘loss of dependency’.
5. The parents would each be entitled to compensation towards ‘loss of love and affection’ and ‘loss of filial consortium’ @ Rs. 50,000/- and Rs. 40,000/- respectively, in terms of the dicta of the Supreme Court in ***Magma General Insurance Co. Ltd. vs. Nanu Ram @ Chuhru Ram & Ors.***, 2018 SCC OnLine SC 1546. The same is granted. Additionally, the claimants would also be entitled to and are granted compensation towards ‘Loss of

Estate' and 'Funeral Expenses' @ R. 15,000/- under each head, in terms of *Pranay Sethi (supra)*.

6. Accordingly, the amount payable to the claimants is as under:

S.No.	Particulars	Amount
1.	Loss of Dependency [Rs. 5,000/- (monthly income of deceased) x 12 (months) x 18 (multiplier) x 140/100 (loss of future prospects) x 50/100 (50% deduction towards personal expenses)]	Rs. 7,56,000/-
2.	Loss of love and affection [Rs. 50,000/- x 2 (claimants)]	Rs. 1,00,000/-
3.	Loss of consortium [Rs. 40,000/- x 2 (claimants)]	Rs. 80,000/-
4.	Loss of Estate	Rs. 15,000/-
5.	Funeral Expenses	Rs. 15,000/-
	TOTAL	Rs. 9,66,000/-

7. The aforesaid amount, alongwith interest @ 9% from the date of filing of the claim petition till its realization, be deposited before the learned Tribunal within three weeks from the date of receipt of copy of this order for it to be released to the beneficiary(ies) of the Award in terms of the scheme of disbursement specified therein.

8. Since the appellant has succeeded partially in this appeal, let the statutory amount, alongwith interest accrued thereon, be returned to the appellant.
9. The appeal is disposed-off in the above terms.

NAJMI WAZIRI, J

OCTOBER 30, 2019/AB

