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

% *Decided on: 15.11.2019*

\+ MAC.APP. 520/2017 & CM No.21784/2017

BHARTI AXA GENERAL INSURANCE CO LTD ..... Appellant
Through Ms.Arunima Dwivedi, Adv. and Mr.Preeti Kumra, Adv.

versus

MADHUSUDAN PRASAD GUPTA & ORS. ..... Respondents
Through Ms.Sarika Goel, Adv. for R-1 to R-4.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal impugns the award of compensation dated 16.03.2017 passed by the learned MACT in MAC No.244/2014 (New No.392/16) on the ground that in the monies earned by the deceased home-maker, no deduction has been made towards 'personal expenses' while computing the loss of dependency.

2. This Court in its judgment passed in ***Royal Sundaram Alliance Insurance Co Ltd. Vs. Dinesh & Ors***. (MACA. No.914/2017 Dt.18.09.2019) has already dealt with this issue and held that monies earned by a home-maker was ordinarily for building of corpus for use by the family on rainy days. Relevant para 2 of this judgment reads as under:-

"2. The learned counsel for the appellant submits that there should be a deduction of 1/3rd of the compensation towards her personal expenses. The said contention is untenable because the claimants were not dependent upon her earnings. She was essentially a home-maker and the economic value of her assistance to the family was quantified in the award. It is not the appellant's case that the husband of the deceased was not and is not supporting his family financially. It is to be kept in mind that what a home-maker earns would normally stay with her as a private provident fund to be used for the family in times of need. Often families get surprised when mothers and home-makers suddenly fish out funds from their savings over the years, for a surprise purchase for their kith and kin. It is this assiduous accumulation of monies over the years, for the mother's love of her family, which comes in handy on rainy days."

3. The same is the position in the present case. The impugned order calls for no interference on this ground. The appellant's argument is untenable and is, accordingly, rejected.

4. The learned counsel for the appellant further contends that the funeral and transport expenses of Rs.25,000/- are on the higher side and it should be Rs.15,000/- in terms of the decision of the Supreme Court in ***National Insurance Co. Ltd. vs. Pranay Sethi & Ors.*** (2017) 16 SCC 680. The argument is correct. The same is granted @ Rs.15,000/- and compensation is also granted towards 'loss of estate' @ Rs. 15,000/-, in terms of the same judgment.

5. The Court would note that the claimants have been awarded only Rs.20,000/- and Rs.50,000/- towards 'loss of consortium' and 'loss of love and affection' respectively, but each of the claimants would be entitled to and are awarded Rs.40,000/- & Rs.50,000/-

respectively, towards ‘loss of consortium’ and ‘loss of love and affection’ in terms of ***Magma General Insurance Co. Ltd. vs. Nanu Ram @ Chuhru Ram & Ors***., 2018 SCC OnLine SC 1546.

6. Thus the amount payable shall be calculated as under:-

S.No.	Particulars	Amount
1.	Loss of dependency	Rs. 12,21,480/-
2.	Loss of Love and Affection [Rs. 50,000 x 4 (claimants)]	Rs. 2,00,000/-
3.	Loss of Consortium [Rs. 40,000 x 4 (claimants)]	Rs. 1,60,000/-
4.	Funeral Expenses	Rs. 15,000/-
5.	Loss of Estate	Rs. 15,000/-
TOTAL		Rs. 16,11,480/-
Less Rs. 13,16,480/- (the amount already awarded by learned Tribunal)		**Rs. 2,95,000/-**

7. Let the enhanced amount of Rs. 2,95,000/- be paid to the beneficiaries of the Award along with interest @9% per annum (and not @10%) from the date of filing of the claim petition till its realization, to be released to the beneficiaries of the Award, in terms of the scheme of disbursement specified therein.

8. In view of the above, the appeal alongwith pending applications is disposed-off.

9. The statutory amount, along with interest accrued thereon, be returned to the appellant.

NAJMI WAZIRI, J

NOVEMBER 15, 2019/aa