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

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Decided on: 25.07.2019

+ **MAC.APP. 521/2017 & CM APPL. 21903/2017**

ARUNA SWAKAR & ORS

..... Appellants

Through: **Mr. Sunil Kumar, Advocate.**

Versus

**HEMANT KUMAR & ORS (M/S IFFCO TOKIO GENERAL
INSURANCE CO LTD)**

..... Respondents

Through: **Mr. Arihant Jain, Advocate for R-3.**

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. The appellant impugns the awarded amount on the ground that 'metropolitan allowance' and 'ration monies' i.e. Rs. 180/- and Rs. 2,665/-, respectively, have not been added to the income of the deceased, for the purposes of computing 'loss of dependency'.
2. It is the appellants' contention that these two allowances are not personal to the deceased policeman but would, by their very nature, be used by the dependant family.
3. The Court is persuaded by the logic in this argument. Accordingly, these two allowances shall be considered in computation of 'loss of

dependency.’ However, 1/4th of the said amount shall be deducted towards personal expenses of the deceased. Within four weeks from today, a fresh computation shall be made by the Insurance Company, in terms of the above and after deduction of TDS, the new computed amount shall be deposited before the learned MACT, to be disbursed to the beneficiaries of the Award, in terms of the scheme of disbursement specified therein.

4. The learned counsel for the appellant further submits that compensation under non-pecuniary heads, such as ‘loss of love and affection’ and ‘loss of consortium’ is on the lesser side and it should be Rs. 50,000/- and Rs. 40,000/- respectively, for each of the dependents i.e. the widow, the two daughters and the mother towards ‘loss of spousal consortium’, ‘parental consortium’ and ‘filial consortium’ respectively, in terms of the dicta of the Supreme Court in ***Magma General Insurance Co. Ltd. vs. Nanu Ram Alias Chuhru Ram & Ors.***, 2018 SCC OnLine SC 1546.

5. The Court is of the view that, indeed, the learned Tribunal has erred in not granting compensation for ‘loss of love and affection’ and ‘loss of consortium’ to each of the dependants of the deceased, in terms of the dicta of the Supreme Court in ***Magma General Insurance Co. Ltd.*** (supra). Accordingly, compensation granted for ‘loss of love and affection’ is enhanced by Rs. 1,00,000/- in addition to the Rs. 1,00,000/- already granted under this head, to be shared by each of the four claimants @ Rs. 50,000/- also ‘loss of consortium’ @ Rs. 40,000/- is awarded to each of the claimants.

6. The learned counsel for the Insurance Company fairly does not dispute grant of the additional compensation.

7. The appeal is allowed and disposed-off in the above terms.

NAJMI WAZIRI, J.

JULY 25, 2019

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