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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Decided on: 16.10.2019

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MAC.APP. 1124/2018 & CM APPL. 52823/2018**M/S NATIONAL INSURNACE CO LTD****..... Appellant****Through: Ms. Aishna Jain, Advocate.****versus****MOHIT & ORS****..... Respondents****Through: Mr. Chiranjeev Chauhan, Advocate
for R-1 & R-2.****CORAM:****HON'BLE MR. JUSTICE NAJMI WAZIRI****NAJMI WAZIRI, J (Oral)**

1. This appeal impugns the award of compensation dated 06.10.2018 passed by the learned MACT in MACP No. 608/17, which has taken into consideration the minimum wages applicable to a skilled workman in Delhi. The claimants had set up a case that the deceased, who was merely 22 years of age at the time of the motor-vehicular accident, had qualified as a medical nurse and was working with Maharaja Agrasen Hospital, Punjabi Bagh, Delhi. Since, the claimants were not able to produce any documents apropos her employment with the said hospital, the minimum wages applicable in Delhi was taken into consideration for computation of 'loss of dependency'. The Court is of the view that insofar as the claimants were not able to substantiate such contention or lead any evidence whatsoever to prove that the deceased was working at the said hospital or otherwise in Delhi, for the learned Tribunal to have taken the minimum wages applicable to a skilled worker in Delhi, is erroneous. All-the-more because the address of the deceased has consistently been shown in Rohtak, Haryana, therefore,

the minimum wages for a skilled workman in Haryana, ought to have been made applicable.

2. At this stage, the learned counsel for the claimants submits that indeed the minimum wages of Haryana should be applied. The relevant minimum wages at the time of the accident in Haryana was Rs. 11,830/- per month for a skilled workman. It is so ordered.

3. The Court would note that only Rs. 40,000/- has been granted towards 'loss of consortium', although, each of the two claimants i.e. husband and minor daughter, is entitled to and are hereby granted the compensation towards 'loss of consortium' @ 40,000/-, in terms the dicta of the Supreme Court in *Magma General Insurance Co. Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.* 2018 SCC OnLine SC 1546. Additionally, they are also entitled to the compensation towards 'loss of love and affection' @ 50,000/- each as per same judgment.

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

S.No.	Particulars	Amount
1.	Loss of Dependency Rs. 11,830/- (minimum wage) x 12 (months) x 18 (multiplier) x 66.66/100 (deduction of 1/3 rd towards 'personal expenses') x 140/100 (40% towards 'future prospects').	Rs. 23,84,690/-
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) less Rs. 40,000/- (already granted)]	Rs. 40,000/-
TOTAL		Rs. 25,24,690/-

5. The aforesaid amount, alongwith interest @ 9% from the date of filing of the Claim Petition till its realization, shall be deposited by the appellant before the learned Tribunal, within three weeks from the date of receipt of copy of this order, to be released to the beneficiaries of the Award, in terms of the scheme of disbursement specified therein.

6. At this stage, the Court would note that the parents of the deceased have not been impleaded as parties to the Claim Petition. They would nevertheless have suffered emotionally; 'loss of love and affection' and 'filial consortium' on account of demise of their young daughter, who was only 22 years of age when she lost her life in the motor-vehicular accident. It will be open to the parents to pursue their claims as may be.

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

8. The statutory amount, alongwith interest accrued thereon, be returned to the appellant.

OCTOBER 16, 2019

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NAJMI WAZIRI, J