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

% *Decided on: 10.10.2019*

\+ MAC.APP. 979/2015 & CM APPL. 31031/2015

NATIONAL INSURANCE CO. LTD. ..... Appellant
Through: Mr. C.S. Parashar, Advocate.

versus

LALITA SHARMA & ORS ...... Respondents
Through: Mr. Rajkumar Mittal, Advocate for R-1 to R-4.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. The award of compensation dated 18.09.2015 passed by the learned MACT in Case No. 804/14 has been impugned on the ground that the offending vehicle involved in the motor-vehicular accident, was never identified. The learned counsel for the appellant submits that even the police officer, who had purportedly seized the vehicle, had not identified or mentioned the number of the vehicle in his deposition and the chargesheet too was not filed.

2. The aforesaid argument is untenable as it is contrary to the records. Head Constable Vishambhar Das had stated that he had witnessed the

accident from a distance of merely 10 to 20 metre. He had instructed his colleague Constable Mukesh, who was patrolling alongwith him near Kashmere Gate, Delhi to chase the offending truck. The latter did so and apprehended it after pursuing it for some distance. In his cross-examination, Head Constable Vishambhar Das (PW-3) had deposed that although he did not remember the number of the truck, he had mentioned the same in the FIR. The number of the vehicle mentioned in the FIR is of the insured vehicle, therefore, there is clearly no doubt about the identity of the offending vehicle. Furthermore, Constable Mukesh, PW-4, had also deposed along similar lines in corroboration of the statement of his Senior, Head Constable Vishambhar Das, that they both had witnessed the accident from close quarters and that he had been instructed by PW-3 to follow the vehicle involving the accident which he followed alongwith the HC and caught the driver at HDFC Bank Pul Defrin.

3. Interestingly, neither PW-3 nor PW-4 were cross-examined by the appellant insurance company. The said witnesses had nevertheless denied the suggestion that the truck was stationary in the parking area or that it was not involved in the accident. The identity of the offending truck stands verified.

4. The next contention is that the age of the deceased being 55 years, the applicable multiplier would be nine instead of eleven. The said contention is rejected because the multiplier of 11 was rightly applied as per dicta of Supreme Court in ***National Insurance Co. Ltd. vs. Pranay Sethi,*** (2017) 16 SCC 680. The lesser multiplier would be applicable only if he had attained 56 years.

5. The other arguments are that deductions ought to have been made of the "ration money" and "transport allowance". The Court is of the view that both these allowances could be used by the family as well and were not specific or exclusive for the workplace. Therefore, the dependency of the family would extend to the "ration money" and the "transport allowance".

6. The Court would note that in terms of dicta of the Supreme Court in ***Pranay Sethi*** *(supra)*, the deceased being 55 years of age, the claimants would be entitled to compensation towards 'loss of future prospects' @ 15%. It is so granted.

7. A lumpsum amount of Rs. 1,00,000/- has been granted towards 'loss of consortium' and Rs. 25,000/- each has been granted towards 'funeral expenses' and 'loss of love and affection' and Rs. 10,000/- has been granted towards 'loss of estate'. However, in terms of ***Pranay Sethi (supra)***, the amount payable towards 'funeral expenses' and 'loss of estate' shall be Rs. 15,000/- under each head. It is so granted. Furthermore, 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, each of the claimants would be entitled to Rs. 50,000/- and Rs. 40,000/- towards 'loss of love and affection' and 'loss of consortium' respectively. It is so granted to them.

8. The amount payable to the beneficiary(ies) of the award shall be as under:

S.No.	Particulars	Amount
1.	Loss of Dependency [Rs.60,165/- (income) x 12 (months) x 11 (multiplier) x 66.66/100 (1/3rd deduction towards personal expenses) x 115/100 (15% loss of future prospects)]	Rs. 60,88,089/-
2.	Loss of love & 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. 64,78,089/-**

9. Let the aforesaid amounts, 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 to be released to the beneficiary(ies) of the Award in terms of the scheme of disbursement specified therein.

10. The case has been listed fourteen times over in which the respondents have appeared thirteen times, therefore, the statutory amount, alongwith interest accrued thereon, shall be given to the claimants as cost of this proceeding.

11. The appeal is dismissed accordingly.

NAJMI WAZIRI, J

OCTOBER 10, 2019/AB