$~6

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

% *Decided on: 08.01.2020.*

\+ MAC.APP. 36/2014

NANAK CHAND & ANR ..... Appellants

Through: Mr. Kamaldeep, Advocate.

versus

THE NEW INDIA ASSURANCE CO LTD & ORS ..... Respondents

Through: Mr. Pankaj Seth, Advocate for R-1.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal impugns the award of compensation dated 21.09.2013 and modified judgment dated 10.12.2013 passed by the learned MACT in Suit No: 573/10, on the ground that it has erroneously applied the multiplier applicable to the age of the claimant-mother instead of the age of the deceased, who was a bachelor.

2. The Court would note that the deceased was 24 years of age at the time of the motor vehicular accident, therefore, the multiplier of 18 ought to have been applied. Accordingly, the multiplier of 18 shall be applied while computing compensation towards 'loss of dependency'. However, since the deceased was a bachelor, there shall be a deduction of 50% from his earnings towards 'personal expenses'.

3. The learned counsel for the appellants further contends that the deceased was a B.Com graduate from Kurukshetra University, Kurukshetra, Haryana. The appellants were permitted to produce educational certificates in this regard and to lead evidence to prove that the deceased was earning Rs. 15,385/- per month while he was employed with M/s VCare Call Centers India (P) Ltd., E-25, Sector-63, Noida-201301, Uttar Pradesh. Its Finance Manager, Mr. K.P. Baluni, testified that indeed the deceased was employed with the said company vide letter dated 21.04.2010 and that his SSC Certificate, B. Com Graduation Certificate as well as records of his pursuing MBA from Maharshi Dayanand University, Rohtak, Haryana, had also been produced. The certificate of the deceased having undergone a summer training at M/s Hindustan Coca-Cola Beverages Pvt. Ltd. and a training certificate issued by Bharat Heavy Electricals Limited, Ranipur, Haridwar, Uttarakhand, has also been brought on record. Another certificate issued by Institute of Management and Development, New Delhi, had also been adduced. Mr. Baluni testified that the salary slips issued for the months of May, June, July, August and September, 2010, collectively marked as AW1/4, were correct and monies have been paid to the deceased in his bank account maintained in YES Bank. The salary slip shows a payment of Rs. 15,385/- in the month of August, 2010. The deponent withstood the cross-examination by the learned counsel for the insurance company.

4. In the circumstances, it stands proven that the deceased was earning Rs. 15,835/- per month. Therefore, the said figure shall be taken into consideration for computation of 'loss of dependency'. Since the deceased was in employment and below the age of 40 years, there shall be an addition of 40% towards 'loss of future prospects', in terms of the dicta of the

Supreme Court in *National Insurance Co. Ltd. vs. Pranay Sethi & Ors.*, (2017) 16 SCC 680.

5. The Court would note that 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 parents of the deceased would be entitled to and are awarded compensation for 'loss of love and affection' and 'loss of consortium' @ Rs. 50,000/- and Rs. 40,000/- each respectively. Furthermore, in terms of *Pranay Sethi (supra),* the parents would also be entitled to and are awarded compensation for 'funeral expenses' and 'loss of estate' @ Rs. 15,000/- each.

6. The amount payable to the appellants/claimants shall be:

S.No.	Particulars	Amount
1.	Loss of Dependency [Rs. 15,385/- (monthly salary of the deceased) x 12 (months) x 18 (multiplier) x 140/100 (loss of future prospects) x 50/100 (50% deduction towards personal expenses)]	Rs. 23,26,212/-
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. 25,36,212/-

7. Mr. Pankaj Seth, the learned counsel for the insurance submits that interest has been granted @ 7.5%. The Court would note that for the past half-a-decade, interest has been awarded @ 9% p.a. Accordingly, the impugned order is modified to the extent that the rate of interest on the awarded amount shall be payable @ 9% p.a. instead of 7.5% from the date of filing of the Claim Petition till its realization in the appeal. The said amount of Rs. 25,36,212/- shall be deposited by the insurer before the learned Tribunal within three weeks from the date of receipt of a copy of this order to be released to the beneficiary(ies) of the Award in terms of the scheme of disbursement specified therein.

8. The amounts which have been received by the appellants shall be deducted to the extent that such monies having already been paid to the appellants. Any shortfall thereof shall be deposited by the insurer.

9. The appeal is disposed-off in terms of the above.

NAJMI WAZIRI, J

JANUARY 08, 2020

AB