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

% *Decided on: 18.02.2020*

\+ MAC.APP. 837/2019

JAHIDA & ORS ..... Appellants

Through: Mr. Kunwar Pal Singh, Adv.

versus

NATIONAL INSURANCE CO LTD ..... Respondent

Through: Mr. Pankaj Seth, Adv.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal seeks enhancement of the award of compensation dated 23.02.2018 passed by the learned MACT in MACP No. 268/2017, on the ground that despite having been proven that the monthly salary of the deceased was Rs. 11,414/- as being a regular employee of M/s Goodluck Enterprises, his income was taken as only Rs. 6,877/- because he had worked only for 17 days. The Court is of the view that insofar as the employment as well as the salary of the deceased had been proven i.e. Rs. 11,414/- per month, the latter figure would have to be taken into consideration while calculating 'loss of dependency'. His having worked for merely 17 days would not make any difference to his proven ability to earn or generate the said salary. The dependency on the proven earnings is the determinative factor for the computation of monetary compensation. It is so ordered.

2. The learned counsel for the appellants contends that since the age of the deceased at the time of the unfortunate motor vehicular accident was 37 years, therefore, there shall be an addition of 50% and not 40% as granted by the learned Tribunal, towards 'loss of future prospects' in terms of the dicta of the Supreme Court in *Parminder Singh vs. New India Assurance Co. Ltd.* (2019) 7 SCC 217. The said contention is rejected since the deceased was employed with the aforesaid company on a fixed salary basis. Therefore, in terms of dicta of Supreme Court in *National Insurance Co. Ltd. vs. Pranay Sethi and Ors.* (2017) 16 SCC 680 (para 59.4), addition towards 'loss of future prospects' ought to be granted @ 40%.

3. Accordingly, compensation towards 'loss of dependency' shall be:-

Rs. 11,414/- (monthly income) x 12 (months) x 15 (multiplier) x 75/100 (1/4th deduction towards personal expenses) + 40% (loss of future prospects) = Rs. 21,57,246/-.

4. Mr. Pankaj Seth, the learned counsel for the insurance company submits that compensation towards non-pecuniary heads has already been enhanced in the appeal being MAC APP. 465/2018, filed by the insurance company which stands disposed-off.

5. Let the aforesaid amount, alongwith interest accrued @9% p.a. from the date of the filing of the claim petition till its realization, 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 beneficiaries of the Award in terms of the scheme of disbursement specified therein.

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

NAJMI WAZIRI, J

FEBRUARY 18, 2020

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