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

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Decided on: 14.02.2020

+ MAC.APP. 24/2016 & CM APPL. 1073/2016

NATIONAL INSURANCE COMPANY THR MANAGER

..... Appellant

Through: Ms. Archana Gaur, Adv.

versus

SUSHILA & ORS

..... Respondents

Through: Mr. S.N. Parashar, Adv. 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 26.10.2015 passed by the learned MACT in MACP No. 287/12/14, on the ground that the rate of interest has been granted @10% p.a. The Court is of the view that for the past half a decade, the rate of interest in the MACT matters by this Court, has been granted @9% p.a. Therefore, the impugned order stands modified to the extent that interest shall be paid @9% p.a.

2. Secondly, the learned counsel for the appellant contends that 1/3rd deduction towards 'personal expenses' of the deceased has been made instead of 50%. She submits that since the deceased was a bachelor, therefore, in terms of the dicta of the Supreme Court in *Sarla Verma vs. Delhi Transport Corporation* (2009) 6 SCC 121, the deduction ought to have been 50% towards 'personal expenses'. The said contention is valid.

Accordingly, 50% of the earnings of the deceased would be deducted towards 'personal expenses'.

3. The Court would note that the deceased was not in a permanent employment, he was under the age of 40 years, therefore, there would 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. The said 40% addition is granted.

4. The Court would note that in terms of the dicta of the Supreme Court in *Magma General Insurance Co. Ltd. vs. Nanu Ram Alias Chuhru Ram & Ors* (2018) 18 SCC 130, each of the claimants are entitled to and are hereby granted compensation towards 'loss of love and affection' and 'loss of consortium' @ Rs. 50,000/- and Rs. 40,000/-, respectively.

5. A similar relief was granted by this Court in *National Insurance Co. Ltd. vs. Lokesh Verma & Ors.*, MAC. APP. 762-763/2019, decided on 02.09.2019, relying upon the dicta of the Supreme Court in *Magma (supra)*, wherein this Court had awarded compensation towards 'loss of love and affection' and 'loss of consortium' @ Rs. 50,000/- and Rs. 40,000/- respectively, to each of the claimants. In the aforesaid judgment, it was held as under:

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10. The Court would note that in terms of *Magma General Insurance Co. Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.*, 2018 SCC OnLine SC 1546, each of the two claimants would be entitled to an award of compensation at the rate of Rs. 40,000/- and Rs. 50,000/- towards 'loss of consortium' and 'loss of love and affection' respectively. The impugned order has

only awarded Rs. 40,000/- towards 'loss of consortium', same would have to be supplemented by another Rs. 40,000/- towards "loss of consortium" and Rs. 1,00,000/- towards "loss of love and affection" (Rs. 50,000/-x2). "

6. SLP (Civil) No(s). 25316-25317/2019, against the aforesaid order was dismissed by the Supreme Court on 24.10.2019.

7. Additionally, the claimants shall also be entitled to compensation towards 'funeral expenses' and 'loss of estate' @ Rs. 15,000/- under each of the heads, in terms of *Pranay Sethi* (supra). The same is granted.

8. The amount payable to the claimants shall be:-

S.No.	Particulars	Amount
1.	Loss of Dependency [Rs. 8,333/- (minimum wages) x 12 (months) x 18 (multiplier) + 40% (loss of future prospects) x 50/100 (50% deduction towards personal expenses)]	Rs. 12,59,950/-
2.	Reimbursement of Medical Expenses	Rs. 1,87,000/-
3.	Loss of love and affection [Rs. 50,000/- x 2 (claimants)]	Rs. 1,00,000/-
4.	Loss of consortium [Rs. 40,000/- x 2 (claimants)]	Rs. 80,000/-
5.	Loss of Estate	Rs. 15,000/-
6.	Funeral Expenses	Rs. 15,000/-
	TOTAL	Rs. 16,56,950/-

9. Let the aforesaid amount, alongwith interest @ 9% p.a. from the date of 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.

10. The monies already paid/deposited shall be set-off against the amounts now payable.

11. The appeal, alongwith pending application, stands disposed-off in the above terms.

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

NAJMI WAZIRI, J

FEBRUARY 14, 2020

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