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

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Decided on: 24.01.2020

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MAC.APP. 112/2015

THE NEW INDIA ASSURANCE COMPANY LTD Appellant

Through: Mr. Salil Paul and Mr. Sahil Paul,
Advocates.

versus

JAGATAREN DEVI & ORS Respondents

Through: Mr. Basant Kumar Gautam,
Advocate.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

CM APPL. 2760/2020 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed-off.

**CM APPL. 2758/2020 (by R-3 for modification of order dt. 26.02.2015) &
CM APPL. 2759/2020 (for early hearing)**

3. These applications seek release of monies in terms of the order dated 26.02.2015 and early hearing of the appeal.
4. Since the appeal itself is about half a decade old, at joint request, it is taken up for disposal.

5. The applications stand disposed-off.

MAC.APP. 112/2015

6. This appeal impugns the award of compensation dated 24.11.2014 passed by the learned MACT in MACP No. 100/2014, on the ground that compensation towards 'loss of future prospects' has been fixed at 30% instead of 25%. The said contention is valid because the age of the deceased at the time of the motor vehicular accident was above 40 years i.e. he was in the age bracket 40 to 50 years, therefore, in terms of the dicta of the Supreme Court in *National Insurance Co. Ltd. v. Pranay Sethi & Ors* (2017) 16 SCC 680, the addition towards 'loss of future prospects' shall be 25%. It is so ordered.

7. The appellant contends that apropos the compensation towards non-pecuniary heads, Rs. 1 lac each granted towards 'loss of love and affection' and 'loss of consortium' is on the higher side. The Court would note that there are six claimants i.e. the parents, wife, two sons and a daughter of the deceased. 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.

8. 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). ”*

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

10. 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.

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

S.No.	Particulars	Amount
1.	Loss of Dependency [Rs. 7,254/- (minimum wages) x 12 (months) x 15 (multiplier) x 125/100 (loss of future	Rs. 12,24,113/-

	prospects) x 75/100 (1/4 th deduction towards personal expenses)]	
2.	Loss of love and affection [Rs. 50,000/- x 6 (claimants)]	Rs. 3,00,000/-
3.	Loss of consortium [Rs. 40,000/- x 6 (claimants)]	Rs. 2,40,000/-
4.	Loss of Estate	Rs. 15,000/-
5.	Funeral Expenses	Rs. 15,000/-
	TOTAL	Rs. 17,94,113/-

12. Let the aforesaid amount, alongwith interest @ 9% p.a. from the date of filing of the claim petition, shall be deposited by the insurer before the learned Tribunal, within three weeks from the date of a copy of this order, to be released to the beneficiaries of the Award in terms of the scheme of disbursement specified therein.

13. Since the appellant has succeeded partly in its appeal, the statutory amount, alongwith interest accrued thereon, be returned to it.

14. The appeal stands disposed-off in the above terms.

NAJMI WAZIRI, J

JANUARY 24, 2020

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