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

% *Decided on: 27.02.2020*

\+ **MAC.APP. 183/2014**

SMT SANDEEP KAUR & ORS ..... Appellants

Through: Mr. Shekhar Kumar & Ms. Saumya Tandon, Advs.

versus

MANISH KUMAR & ORS ..... Respondents

Through

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J (Oral)

MAC.APP. 183/2014 & CM APPL. 3754/2014

1. This petition impugns the award of compensation dated 15.05.2013 passed by the learned MACT in case no. MACP No. 52/11/09 on the ground that instead of the proven income of the deceased earned from the vehicle owner, to whom he was rendering services, the learned Trial Court has computed the pecuniary loss on the basis of minimum wages.

2. Mr. Yogesh Kumar (PW3), manager of the company had deposed that Mr. Harpreet Singh used to render services to M/s Punjab Bus Tourist Services for which he was regularly paid different amounts by way of cheques. He had tendered a list of five payments made to the deceased between April and August, 2009 for various

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amounts i.e. Rs. 10,496, Rs. 11,389/-, Rs. 14,943/-, Rs. 16,894/- and Rs. 24,580/- (Total Rs. 78,302 ÷ 5 = Rs. 15660.4/- per month aggregate). Each of these cheques were encashed in favour of the deceased, the same is borne out from his bank account statement (page 347 of the LCR). Furthermore, the Clerk of the Bank (PW2) had stated that the said document (ex. PW1/13) was correct as per the records of the account of the deceased. Nothing adverse came out of the cross-examination of either the Bank Clerk (PW2) or Mr. Yogesh Kumar (PW3), Manager of M/s Punjab Tourist Bus Service.

3. The deceased passed away on 13.09.2009. For the five consecutive months prior to his demise, the deceased had earned monies far in excess of minimum wages. The average income of the preceding five months is Rs. 15,660/-. The same shall, therefore, be taken into consideration for computation of the loss of dependency. Furthermore, the deceased being merely 23 years of age, at the time of the motor accident, the multiplier of 18 would be applicable in terms of the dicta of the Supreme Court in *Sarla Verma v/s Delhi Transport Corporation* (2009) 6 SCC 121. The deceased was a bachelor, therefore, there shall be 50% deduction towards his personal expenses. The amount payable towards loss of dependency shall be: Rs. 15,600/-(income) x 12(months) x 18(multiplier) x 50/100(deduction towards personal expenses) x 140/100(loss of future prospects) = Rs. 23,58,720/-.

4. In terms of *Magma General Insurance Co. Ltd. vs. Nanu Ram @ Chuhru Ram & Ors.* (2018) 18 SCC 130, the claimants-parents would also be entitled to "loss of consortium" @ 40,000/- each. The

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same is awarded to them. Furthermore, in terms of the decision of the Supreme Court in *National Insurance Co. Ltd. v/s Pranay Sethi & Ors (2017) 16 SCC 680* "funeral expenses" shall be paid @ Rs. 15,000/- and compensation towards "loss of estate" shall be paid @ 15,000/-. The amount payable shall be as under:

S.No	Particulars	Amount
1.	Loss of Dependency [Rs. 15,600/- (income)x12(months)x18(multiplier)x50/100(50% deduction towards personal expenses)x140/100(40% towards 'loss of future prospects')	Rs. 23,58,720/-
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/-
Less amount (awarded by ld. Tribunal)		Rs. 6,89,946/-
TOTAL		Rs. 18,78,774/-

5. The aforesaid enhanced amount shall be paid to the claimants along with interest @ 9% per annum from the date of filing of the claim petition till its realization. The amounts shall be deposited before the learned Tribunal within three weeks from the date of receipt of copy of this order and the same shall be disbursed to the claimants in terms of the scheme of disbursement specified in the Award. The amounts already paid shall be set off.

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6. The appeal is allowed and disposed off in the above terms.

NAJMI WAZIRI, J

FEBRUARY 27, 2020/kk

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