



2023:DI03:0995



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Date of decision: 12.12.2023**

+ **MAC.APP. 2/2021 & CM APPL. 41/2021**
NATIONAL INSURANCE COMPANY LTD. Appellant
Through: Mr.Amit Kr. Singh, Adv.

versus

ARJUN SINGH & ORS. Respondents
Through: None

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. In spite of service of notice on the respondents, none is appearing for the respondents. The same was the position on the last two dates. The respondents are, therefore, proceeded *ex-parte*.
2. This appeal has been filed challenging the Award dated 24.01.2020 (hereinafter referred to as the 'Impugned Award') passed by the learned Motor Accidents Claims Tribunal, North-West District, Rohini Courts, Delhi (hereinafter referred to as the 'Tribunal') in New No.49842/2016, titled as *Sh.Arjun Singh & Ors. v. Sh.Manish & Anr.*
3. The limited challenge of the appellant to the Impugned Award is on the compensation of Rs.2,50,000/- awarded in favour of the claimants, that is, respondent nos.1 to 5 herein, towards 'loss of love and affection' and Rs.2 lakhs towards 'loss of consortium'.



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4. The learned counsel for the appellant, placing reliance on the judgment of the Supreme Court in *National Insurance Company Ltd. v. Pranay Sethi & Ors.* (2017) 16 SCC 680, and in *Shri Ram General Insurance Co. Ltd. v. Bhagat Singh Rawat & Ors.* (judgement dated 27.03.2023 passed in Civil Appeal No.2410-2412 of 2023), submits that only a sum of Rs.40,000/- could have been awarded in favour of the claimants, that is, the respondent nos.1 to 5 herein, towards loss of consortium, and no amount should have been awarded as compensation towards the loss of love and affection.

5. I have considered the submissions made by the learned counsel for the appellant.

6. In the present case, the claimants are the husband and the children of the deceased- Smt.Neelam, who unfortunately died in the accident that had taken place on 10.06.2012. In *United India Insurance Co. Ltd. v. Satinder Kaur alias Satwinder Kaur & Anr.*, (2021) 11 SCC 780, the Supreme Court clarified that each of the legal representative of the deceased is entitled to loss of consortium, be it 'Parental', 'Filial', or 'Spousal'.

7. In *Bhagat Singh Rawat* (supra) also, the Supreme Court has observed as under:

"We are, however, of the view that the total amount has to be assigned under a particular heading and that will go depending on the number of legal heirs present."

(Emphasis supplied)

8. In *Bhagat Singh Rawat* (supra), the attention of the Supreme Court was not drawn to the judgment in *Satinder Kaur* (supra). In any



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case, the Supreme Court has held that the compensation will depend on the number of legal heirs present.

9. In *Anjali v. Lokendra Rathod*, 2022 SCC OnLine SC 1683, and in *Rahul Ganpatrao Sable v. Laxman Maruti Jadhav*, 2023 SCC OnLine SC 780, also, the Supreme Court has awarded compensation towards loss of consortium to each of the claimants therein.

10. Therefore, each of the claimants would be entitled to loss of consortium at the rate of Rs.40,000/- each, that is, $\text{Rs.40,000} \times 5 = \text{Rs.2,00,000/-}$. Therefore, no fault can be found in the learned Tribunal awarding a sum of Rs.2 lakhs towards the loss of consortium in favour of the respondent nos.1 to 5 herein. The said challenge of the appellant is, therefore, rejected.

11. However, as far as the compensation towards the loss of love and affection is concerned, the Supreme Court in *Pranay Sethi* (supra) has clarified that only non-pecuniary heads on which compensation can be awarded are 'Loss of Consortium', 'Funeral Expenses' and 'Loss of Estate'. The compensation towards loss of love and affection, therefore, could not have been granted by the learned Tribunal. The Impugned Award, insofar as it awards compensation of Rs.2,50,000/- in favour of the respondent nos.1 to 5 towards the loss of love and affection, therefore, shall stand set aside.

12. This Court by its *interim* order dated 04.01.2021, taking into consideration the above position in law, directed the appellant to deposit the compensation awarded by the learned Tribunal minus the compensation awarded towards the loss of love and affection, that is Rs.16,94,500/-, along with interest, with the learned Tribunal. It was



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further directed that the same shall be disbursed to the beneficiaries of the Impugned Award in terms of the scheme of disbursement specified therein.

13. In view of the above, the Impugned Award shall stand modified. The respondent nos.1 to 5 are held entitled to the compensation of Rs.16,94,500/- along with interest at the rate of 9% per annum from the date of the filing of the Claim Petition, that is, 17.07.2012, till the deposit of the said amount by the appellant with the learned Tribunal in compliance with the order dated 04.01.2021 of this Court. The said amount shall continue to be disbursed to the respondent nos.1 to 5/claimants in terms of the schedule of disbursement as prescribed by the Impugned Award.

14. The appeal and the pending application are disposed of in the above terms.

15. There shall be no order as to costs.

NAVIN CHAWLA, J

DECEMBER 12, 2023/Arya/ss

Click here to check corrigendum, if any