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

Date of decision: 10.10.2023

\+ **MAC.APP. 75/2022**

OM PRAKASH ..... Appellant
Through: Mr.Anshuman Bal, Adv.

versus

RELIANCE GEN INS CO LTD & ORS. ..... Respondents
Through: Mr.A.K. Soni, Adv. for R-1.
Mr.Paramhans Yadav, Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (*ORAL*)

1. This appeal has been filed by the appellant challenging the Award dated 05.12.2019 (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. 02/2017 (Unique ID No.DLNW01-009544-2016) titled as ***Smt. Geeta and Anr. v. Sh.Amit Kumar and Ors***.

2. The limited challenge of the appellant to the Impugned Award is on the ground that as the deceased-Mr.Manish Kumar was aged 15 years and 8 months on the date of the accident, which had taken place on 27.08.2014, the learned Tribunal has erred in determining his notional income on the basis of the judgment of this Court in ***Chetan Malhotra v. Lala Ram***, 2016 SCC OnLine Del 2981. The learned counsel for the appellant

submits that the minimum wages for a non-matriculate should have been adopted for determining the income of the deceased.

3. This Court, while considering similar submissions in ***United India Insurance Company Limited v. Sh. Jamaluddin Khan & Ors.***, 2023:DHC:6242, has held as under:-

> *"20. The above judgments, therefore, have not laid down the basis on which notional income in case of a child is to be determined by the Tribunal, but have, on facts of those cases, held that the notional income determined by the learned Tribunal did not warrant any interference.*
> *21. In view of the above decisions of the Supreme Court and of this Court, in my opinion, the most reasonable basis for determining the loss of dependency, even in the case of a minor, would be the minimum wages notified by the State Government where the minor resides at the time of the accident. As the notional income is being determined on basis of the minimum wages, I deem it appropriate also to add future prospects to such income at the rate of 40% by applying the principle laid down by the Supreme Court in National Insurance Company Limited v. Pranay Sethi And Others, (2017) 16 SCC 680."*

4. In view of the above, the Impugned Award, insofar as it determines the income of the deceased based on the judgment of this Court in ***Chetan Malhotra*** (Supra), is set aside. The income of the deceased is determined on the basis of the minimum wages as notified by the Government of NCT of Delhi for a non-matriculate, which at that relevant time was Rs.9,438/- per month.

5. As the deceased was aged 15 years and 8 months, in view of the judgment of this Court in ***Sheeba @ Shiva v. TATA AIG Gen. Ins. Co. Ltd. & Ors.***, 2023:DHC:5084, multiplier of 18 would be applicable.

6. In view of the above, the compensation to be awarded to the appellant towards loss of dependency is re-determined as under:-

Income of deceased (A)	Rs.9438/-
Add: Future prospects 40% (B)	Rs.3775.20/-
Less:- Personal expenses of the deceased	1/2
Monthly loss of Dependency (A+B)-C=D	Rs.6606.60/-
Annual Dependency (DX12)	Rs.79,279.20/-
Multiplier (E)	18
LOSS OF DEPENDENCY	**Rs,14,27,025.60/-** Rounded off to Rs. 14,27,026/-

7. The learned counsel for the appellant further submits that the learned Tribunal has also erred in not awarding compensation towards loss of consortium, loss of estate, and towards funeral expenses.

8. In view of the judgment of Supreme Court in ***National Insurance Company Limited v. Pranay Sethi and Others***, (2017) 16 SCC 680, and as explained by ***United India***

Insurance Company Limited v. Satinder Kaur alias Satwinder Kaur and Others, (2021) 11 SCC 780, the appellant is held entitled to compensation towards loss of consortium at Rs.80,000/-; loss of estate Rs.15,000/-; and towards loss of funeral expenses Rs.15,000/-. The total compensation, to which the appellant is held entitled, is as under:

S.No.	**Particulars**	**Amounts**
1.	Loss of Dependency	Rs.14,27,026/-
2.	Medical Expenses	Rs.18,09,042/-
3.	Loss of consortium	Rs.80,000/-
4.	Loss of Estate	Rs.15,000/-
5.	Funeral Expenses	Rs.15,000/-
6.	**Total Amount**	**Rs.33,46,068/-**

9. The above compensation amount shall carry interest at the rate as awarded by the learned Tribunal in the Impugned Award.

10. The respondent no.1 shall deposit the enhanced amount of compensation with the learned Tribunal within a period of eight weeks from today.

11. I may herein note that before the learned Tribunal, there were two claimants, that is, the parents of the deceased. Unfortunately, claimant no.1/mother of the deceased, in the meantime, has expired. The entire awarded amount, as enhanced by this order, shall now be released in favour of the appellant/Father of the deceased, who was the claimant no.2

before the learned Tribunal, in terms of the Schedule of Disbursal prescribed by the learned Tribunal in the Impugned Award.

12. The appeal is allowed in the above terms. There shall be no order as to costs.

NAVIN CHAWLA, J

OCTOBER 10, 2023*/rv/SS*