



2023:DHC:9034



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 13.12.2023*

+ **MAC.APP. 139/2020 & CM APPL. 9091/2020**
ORIENTAL INSURANCE CO LTD Appellant
Through: Mr.R.K. Tripathi, Adv.
versus
BALBIR KUMARI & ORS Respondents
Through: Mr.Manish Baidwan, Adv. for
R-1 to R-4.

CORAM:**HON'BLE MR. JUSTICE NAVIN CHAWLA****NAVIN CHAWLA, J. (ORAL)**

1. This appeal has been filed challenging the Award dated 29.11.2019 (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 MACT Case No. 450469/2016, titled as *Smt. Balbir Kumari & Ors. v. Harish Chand & Ors..*

LOSS OF LOVE AND AFFECTION

2. The first challenge of the appellant to the Impugned Award is on the compensation awarded towards the head of loss of love and affection, in favour of claimants/respondent nos.1 to 4 herein.

3. The learned Tribunal, by its Impugned Award, has awarded a sum of Rs.1,50,000/- in favour of respondent nos.1 to 4 herein as compensation towards loss of love and affection.

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4. The learned counsel for the appellant submits that in terms of the judgment of the Supreme Court in *National Insurance Company Limited v. Pranay Sethi and Others*, (2017) 16 SCC 680, the said compensation cannot be granted.

5. On the other hand, the learned counsel for respondent nos.1 to 4 submits that the judgment in *Pranay Sethi* (Supra) does not grant compensation towards loss of love and affection in favour of the claimants. He submits that the compensation which has been granted by the learned Tribunal, therefore, deserves no interference.

6. I have considered the submissions made by the learned counsels for the parties.

7. In *Pranay Sethi* (Supra), on the issue of grant of compensation on non-conventional non-pecuniary heads, it has been *inter alia* held as under:-

“52. As far as the conventional heads are concerned, we find it difficult to agree with the view expressed in Rajesh [Rajesh v. Rajbir Singh, (2013) 9 SCC 54]. It has granted Rs 25,000 towards funeral expenses, Rs 1,00,000 towards loss of consortium and Rs 1,00,000 towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist. Though Rajesh refers to Santosh Devi [Santosh Devi v. National Insurance Co. Ltd., (2012) 6 SCC 421], it does not seem to follow the same. The conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an acceptable criterion. Unlike determination of income, the said heads have to be quantified. Any quantification must have

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a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same and unless the thumb rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to be unguided. Therefore, we think it seems to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs 15,000, Rs 40,000 and Rs 15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads."(Emphasis supplied)

8. In view of the above, the award of compensation on the head of love and affection in favour of respondent nos.1 to 4 by the Impugned Award, cannot be sustained and is accordingly set aside.

INTEREST

9. The appellant also challenges the Impugned Award on the rate of interest on the compensation amount awarded in favour of respondent nos.1 to 4.

10. The learned counsel for the appellant submits that by the Impugned Award, the learned Tribunal has directed payment of



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the compensation amount along with interest at the rate of 9% per annum. He submits that keeping in view the then prevailing rate of interest as notified by the Reserve Bank of India, the said amount is excessive and is liable to be reduced.

11. I do not find any merit in the above contention.

12. In the present case, the accident in question had taken place on 18.03.2009. In the accident, the respondent nos.1 to 4 had lost their loved one. The Award itself was passed only on 29.11.2019, that is, after a period of almost 10 years. Even till today, the respondent nos.1 to 4 have not received the full compensation that they are entitled to. Accordingly, I reject the above challenge of the appellant.

CONCLUSION AND DIRECTIONS

13. This Court by its *interim* order dated 13.01.2021, had directed the appellant to deposit the entire awarded amount with the learned Tribunal. It was further directed that out of the awarded amount, only 25% thereof, shall be released to the claimants in terms of the Award.

14. Now that the compensation amount has been reduced, out of the sum so deposited by the appellant, a sum of Rs.1,50,000/-, along with proportionate interest accrued thereon, shall be released in favour of the appellant. The remaining amount shall be released in favour of respondent nos.1 to 4 in terms of the Impugned Award.

15. The statutory amount deposited by the appellant shall be released to the appellant along with interest accrued thereon.

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

NAVIN CHAWLA, J

DECEMBER 13, 2023/rv/ss

Click here to check corrigendum, if any

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