



2023:DHC:7059



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 26.09.2023*+ **MAC.APP. 392/2018****MADHVI & ORS**

..... Appellants

Through: Mr.Sunil Kumar, Adv.

versus

**IRSHAD & ORS (M/S IFFCO TOKIO GENERAL
INSRUANCE CO LTD)**

..... Respondents

Through: Mr.Pankaj Gupta, Adv. for
Ms.Suman Bagga, Adv. for
Insurance Company.**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****NAVIN CHAWLA, J. (ORAL)****CM APPL. 50201/2023**

1. This application seeks preponement of the date of hearing of the main appeal.
2. The learned counsel for the respondent no.3, who appears on advance notice and who is the only relevant/contesting party in the appeal, does not oppose the application.
3. With the consent of the learned counsels for the parties, the hearing of the appeal is preponed and the appeal is taken up for hearing today itself.
4. The application stands disposed of.

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5. This appeal has been filed by the appellant challenging

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the Award dated 29.05.2017 (hereinafter referred to as the 'Impugned Award') passed by the learned Motor Accidents Claims Tribunal, South District, Saket Courts, New Delhi (hereinafter referred to as the 'Tribunal') in Suit No. 76054/2016 titled ***Madhvi & Others v. Irshad & Others***.

6. The limited challenge of the appellant to the Impugned Award is that the learned Tribunal, while awarding loss of dependency in favour of the claimants/appellants, has erred in not taking into account the future prospects of increase in income of the deceased as held by the Supreme Court in ***National Insurance Company Limited v. Pranay Sethi and Others***, (2017) 16 SCC 680.

7. On the other hand, the learned counsel for the respondent no.3 submits that as the appellants are seeking benefits of judgment of the Supreme Court in ***Pranay Sethi*** (Supra), the award of compensation on account of loss of love and affection could not have been granted in their favour. Equally, the amount awarded towards loss of consortium, funeral expenses and loss of estate, is also not in terms of the judgment in ***Pranay Sethi*** (Supra).

8. As both the counsels are relying on the judgment of the Supreme Court in ***Pranay Sethi*** (Supra), they agree that the compensation awarded to the appellants be re-determined by this Court in terms of the said judgment.

9. In view of the above, the compensation awarded in favour of the appellants is re-determined as under:-



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**Loss of Dependency**

<i>Admitted Salary (per month)</i>	<i>19,000/-</i>
<i>Add: 40% as Future Prospects</i>	<i>7,600/-</i>
<i>Total</i>	<i>26,600/-</i>
<i>Less: personal expenses (1/4)</i>	<i>6,650/-</i>
<i>Monthly loss of dependency</i>	<i>19,950/-</i>
<i>Annual loss of dependency</i>	<i>2,39,400/-</i>
<i>Multiplier of 17</i>	
<i>Loss of Dependency</i>	<i>40,69,800/-</i>

Total Compensation

<i>Loss of dependency</i>	<i>40,69,800/-</i>
<i>Loss of love and affection</i>	<i>0</i>
<i>Loss of consortium (40,000x4)</i>	<i>1,60,000/-</i>
<i>Funeral expenses</i>	<i>15,000/-</i>
<i>Loss of estate</i>	<i>15,000/-</i>
<i>Total</i>	<i>42,59,800/-</i>

10. The above compensation shall carry interest at the rate and for the period as awarded by the learned Tribunal.

11. The respondent no.3 shall deposit the enhanced amount along with interest with the learned Tribunal within a period of six weeks from today. While making such deposit, the respondent no.3 shall also submit with the learned Tribunal its calculation on the basis of which the deposit is being made. The appellants shall be entitled to challenge the same before the learned Tribunal, if so warranted.

12. The enhanced compensation amount shall be released in favour of the appellant in terms of the schedule of disbursement as stipulated in the Impugned Award by the learned Tribunal.

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13. The appeal is disposed of in the above terms. There shall be no order as to costs.

14. The next date of hearing fixed in the appeal, that is, 21.02.2024, shall stand cancelled.

NAVIN CHAWLA, J

SEPTEMBER 26, 2023/rv/AS

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