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

\+ MAC.APP. 89/2020

HEM KUMARI DEVI & ORS .....Appellant

Through: Mr. Umesh Kumar, Ms. Sakshi Mishra and Mr. Manoj Goel, Advs.

versus

INDRA PAL SINGH & ORS (UNITED INDIA INSURANCE CO LTD) .....Respondent

Through: Ms. Mahua Kalra, Adv. for R-3.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

<u>O R D E R</u>

% 03.02.2026

1. This appeal has been filed assailing the award dated 06th August 2018 passed by the MACT, Patiala House Court in MACT No.124/2015, whereby the Tribunal awarded a compensation of *Rs.19,36,000/-* along with interest @ 9% per annum from the date of the filing of the DAR till notice of deposit.

2. The accident occurred on 30th March 2015 at about 04:20 p.m. at *Andheria More Road, Mahipal Pur, New Delhi,* when the deceased, *Late Sh. Agni Dhar* was boarding a bus. The bus was stated to have suddenly moved, and as a result of the jerk, the deceased fell on the road and sustained injuries. He was removed to the AIIMS Trauma Centre and subsequently passed away on 03rd April 2015.

3. A claim was filed before the MACT. The MACT awarded compensation as stated above.

4. There are only two counts on which the appellant/LRs of the deceased

have claimed enhancement.

5. ***First,*** as per the evidence placed through **PW2**, *Mr. Sanit Sadh,* who was the proprietor of *M/s RKM Exports*, the deceased stated to have been earning *Rs.15,500/-* per month since December 2014 and documentation was placed in that regard, including copy of the vouchers and other documents relating to the company.

6. The Tribunal took into account that the pension which the deceased was getting was *Rs.23,400/-* per month since he was an ex-serviceman. There is no dispute that the pension was being received of *Rs.23,400/-* per month by the deceased. In addition, *Rs.15,500/-* per month in calculating the loss of dependency is being sought additionally.

7. The perusal of the impugned award would show that the issue has been comprehensively assessed by the MACT, including the evidence and the documents which had been placed on record. The concluding observations of the MACT are as follows:

> "*The above depositions made by this witness put serious doubts on the claim of the petitioners regarding alleged working of deceased with the above firm and drawing of a salary of Rs.15,500/- at the time of accident. As per the letter head of the firm on which the certificate Ex.PWl/25 regarding salary of the deceased has been given and the other documents placed on record, the above firm was a manufacturer and exporter of all kind of silk scarves, bags, jewellery and garments and it just cannot be believed that no registers or records were being maintained by the firm of their employees when it is an admitted that four regular employees and other labourers through a contractor were working with them. Again, salary of the deceased is claimed to be paid in cash only*

and PW2 has also stated that they were not keeping any records of salary etc. paid to their employees. Though originals of the above vouchers are shown to have been produced at the time of recording of examination in chief of the above witness, but this witness has failed to produce on record these originals on the next date of his examination and what he has produced on next date is only a booklet containing similar blank cash vouchers and that too without any serial numbers. These vouchers are also containing receiving of the amounts paid through these vouchers to the deceased and the same should have been kept and preserved by the firm for their accounts. Even no account books or any other document of the above firm to substantiate the claim of employment of the deceased with above firm at the above salary has been produced in evidence. It cannot be ignored that the accident took place in March, 2015 and employment of the deceased with the above firm is being shown from December, 2014 only, i.e. just four months prior of the accident, though the deceased was discharged from Indian Army in the year 2002. Again no income tax return of the deceased has also been filed on record to show that he had ever worked with any firm or company since his discharge form services. Hence, this tribunal is not satisfied with the veracity of evidence led on record regarding the above employment and salary of deceased and is of the considered opinion that possibility cannot be ruled that the same has been fabricated in an attempt to enhance the claim of the petitioners. Therefore, the above amount of Rs.15,500/- cannot be considered for addition to the above pension income/earnings of the deceased and his loss of dependency is liable to be calculated only on the above pension amount of Rs.23,400/- p.m."

8. The Court does not find any infirmity with this assessment and is, therefore, not inclined to interfere with the compensation of award. Moreover, the Court has also perused the evidence placed on record regarding the alleged additional income and finds it is cursory, not robust and credible enough to be considered for computation.

9. ***Second*** issue is in respect to his grant of *loss of consortium* at *Rs.40,000/-,* whereas it ought to have been for each family member.

10. It is stated that since the mother of the deceased had passed away before the passing of the MACT award, the number of family members which were left are the claimants herein, i.e. the wife of the deceased, three daughters and one son.

11. Accordingly, the *loss of consortium,* as per principles laid down by the Supreme Court in ***National Insurance Co. Ltd. v. Pranay Sethi*** (2017) 16 SCC 680, ought to be awarded at *Rs.40,000 x 5 (number of family members) = Rs. 2,00,000/-.*

12. Accordingly, the additional compensation towards *Loss of consortium* would be *Rs.2,00,000 – 40,000 = Rs.1,60,000/-,* which will be awarded along with interest, as awarded by the MACT.

13. The enhanced compensation be deposited before the MACT, along with interest, which shall be released in terms of the directions of the MACT.

14. Accordingly, the appeal is disposed of.

15. Pending applications, if any, are also disposed of as rendered infructuous.

16. Order be uploaded on the website of this Court.

ANISH DAYAL, J

FEBRUARY 3, 2026/MK/bp