

IA No. 01/2017
(An application for passing an order for release)
Arising out of MAC APP. No. 18/2015.

The Branch Manager, National Insurance Co. Ltd.
Vs. Dhan Kumari Manger & Ors.

BEFORE
MR. JUSTICE SATISH K. AGNIHOTRI, CJ.

01. 17.02.17 Present: Mr. Thupden G. Bhutia, Advocate for the Applicant.

Mr. Ajay Rathi and Ms. Phurba Diki Sherpa,
Advocates for the Respondents.

...

IA No. 01/2017 is an application filed by the National Insurance Co. Ltd., appellant, seeking an order to award the amount of Rs.4,00,000/- (Rupees four lakhs) only as deposited by the appellant at the time of admission of the appeal and further withdrawal of statutory amount of Rs.25,000/- (Rupees twenty five thousand) deposited in favour of the Member, MACT, Gangtok, East Sikkim as per the proviso to Section 173 (1) of Motor Vehicles Act, 1988.

The facts in nutshell is that the appellant-Insurance Company filed an appeal questioning the legality and validity of the Judgment and Award dated 25.02.2015 rendered in MACT Case No. 17 of 2014 by the Motor Accidents Claims Tribunal, East Sikkim at Gangtok.

This Court, considering the appeal, modified the Award and a total amount to the tune of Rs.4,61,700/- was awarded as under: -

"19. In the case on hand, the Claimant No. 1 is spouse of the victim. Accordingly, the compensation amount awarded is modified as under: -

1.	Loss of earning	:	Rs.4,52,200.00
2.	Funeral Expenses	:	Rs. 2,000.00
3.	Loss of Estate	:	Rs. 2,500.00
4.	<u>Loss of Consortium</u>	:	<u>Rs. 5,000.00</u>
	<u>Total</u>	:	<u>Rs.4,61,700.00</u>

The Claimants are not entitled to compensation under other heads, i.e. Future Prospects and Non-pecuniary damages as awarded by the Tribunal.

20. Accordingly, the total amount is determined to the tune of Rs.4,61,700/- (Rupees Four lakhs Sixty One thousand and Seven hundred) only which shall be apportioned as directed by the Tribunal, i.e. Rs. 4,56,700/- (Rupees Four lakhs Fifty Six thousand and Seven hundred) only shall be equally divided amongst the Claimants 1, 2 and 3; 50% of the share of the minor Claimants 2 and 3 shall be deposited in any nationalized bank. The amount to the tune of Rs.5000/- (Rupees Five thousand) only, from the total amount of Rs.4,61,700/- (Rupees Four lakhs Sixty One thousand and Seven hundred) only, shall be paid separately to the Claimant No. 1 (the Respondent No. 1 herein), on account of Loss of Consortium."

The amount so deposited by the appellant-Insurance Company is still lying with the Registry of this Court. The Tribunal is a competent authority to deal with the order and disburse the amount accordingly. Thus, the Registry is directed to transmit the said amount forthwith with interest, if any, accrued during the deposit of the amount to the MACT, East at Gangtok to deal with the same as per the order dated 31.08.2016 passed by this Court.

With this observation and direction, the application stands disposed of.

Sd/-
Chief Justice
17.02.2017

jk/to Index : ~~Yes~~ / No
Internet : Yes / ~~No~~