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

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Judgment delivered on: 31.08.2021

+ MAC.APP. 122/2020

MAGMA HDI GENERAL INSURANCE CO LTD...Appellant

versus

MEENA KUMARI @ MEENU & ORS

..... Respondent

Advocates who appeared in this case:

For the Appellant:

Mr. Ved Vyas Tripathi, Advocate.

For the Respondent:

Mr. Pratap Singh and Mr. Arun Yadav, Advocates.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM. APPL.28779/2021 (for release of amount by R-1)

1. Issue notice. Notice is accepted by learned counsel for the appellant.
2. Learned counsel for the parties pray that the appeal be taken up for hearing today.
3. In view of the above, the application is disposed of. The appeal is taken up for hearing today. The next date of 29.09.2021 is

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MAGGU
Signing Date:01.09.2021 07:50:23
This file is digitally signed by PS
to HMJ Sanjeev Sachdeva.

MAC.APP. 122/2020

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SACHDEVA
Signing Date:31.08.2021
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cancelled.

MAC.APP. 122/2020

1. Appellant impugns award dated 02.12.2019, whereby claim petition has been allowed and compensation awarded.

2. The only ground of challenge by the appellant to award is towards award of sum of Rs.1,50,000/- under the head of 'loss of love and affection to children and parents of the deceased. There is no challenge to the factum of the accident, negligence or the quantum apart from the above.

3. The deceased was coming on his motorcycle from Dhansa Border village Badli side. A Tata Canter being driven in a rash and negligent manner by its driver, hit the motorcycle, as a result of which, the deceased fell down on the road, sustained fatal injuries and died at the spot.

4. The Tribunal has found the driver of the offending vehicle to be rash and negligent and accordingly held the driver and owner and consequently the insurance company liable as the vehicle was admittedly insured with the appellant insurance company at the time of the accident.

5. The deceased has left behind a widow, three children and parents.

6. The Tribunal assessed the income of the deceased at Rs.8554/- per month and deducted 1/4th towards personal expenses keeping in view the number of dependant family members and applied the law laid down by the Supreme Court in *Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.* (2009) 6 SCC 121.

7. The Tribunal has further applied the principles laid down in *National Insurance Company Ltd. Vs. Pranay Sethi*, (2017) 16 SCC 680 for assessment of compensation.

8. Under the head of 'loss of consortium', a sum of Rs.40,000/- has been awarded to the wife of the deceased.

9. Insofar as the three children and parents are concerned, they have been awarded a sum of Rs.30,000/- each under the head of 'loss of love and affection'.

10. The Tribunal has applied the ratio of the judgment of the Supreme Court in *Magma General Insurance Co. Ltd. Vs. Nanu Ram*, (2018) 18 SCC 130.

11. The judgment in *Magma General Insurance Co. Ltd.* (*supra*) has been applied by the Supreme Court in *United India Insurance Company Ltd. Vs. Satinder Kaur @ Satwinder Kaur* 2020 SCC OnLine SC 410.

12. The Supreme Court in *Magma General Insurance Co. Ltd.*

(*supra*) has held that the word 'consortium' means spousal consortium, parental consortium and filial consortium and accordingly held that both parents as well as the children of the deceased would be entitled to be awarded loss of consortium under the head of 'parental consortium' and 'filial consortium' respectively.

13. Though in *Magma General Insurance Co. Ltd.*, the Supreme Court, applying the ratio of the decision in *Pranay Sethi (supra)*, awarded a sum of Rs.40,000/- for each of the children, in the present case the Tribunal has awarded a sum of Rs. 30,000/- each. Since there is no cross-appeal filed by the claimants, I am not inclined to interfere in the award of sum of Rs. 30,000/- each per claimant i.e. children and parents of the deceased.

14. In view of the above, I find no ground to interfere with the impugned award as the same is a well-reasoned awarded and has correctly applied the ratio of the decisions of the Supreme Court referred to hereinabove.

15. I find no merit in the appeal. The appeal is accordingly dismissed.

16. The amount deposited by the appellant/insurance company with the Registrar General of this Court alongwith interest accrued thereon, if any, be transmitted to the Tribunal. The Tribunal shall thereafter expeditiously disburse the same as per the scheme of disbursal

mentioned in the award.

17. Since the appellant claims to have deposited the entire awarded amount, on verification of the same, the statutory amount deposited with this Court be refunded to the appellant.

AUGUST 31, 2021
NA

SANJEEV SACHDEVA, J.

