

(2021) 02 DEL CK 0095

In the Delhi High Court

Case No : MAC. Appeal No. 262 Of 2020, Civil Miscellaneous Application No. 32271 Of 2020

M/S National Insurance Company Ltd.

APPELLANT

Vs

Amir Hassan & Ors

RESPONDENT

Date of Decision : 10-02-2021

Acts Referred:

Citation : (2021) 02 DEL CK 0095

Hon'ble Judges : Sanjeev Sachdeva, J

Bench : Single Bench

Advocate : Rakhi Dubey, Anshuman Bal

Final Decision : Disposed Of

Judgement

Sanjeev Sachdeva, J

1. Appellant impugns judgment dated 02.12.2019 whereby the claim petition filed by respondent nos. 1 to 5 was allowed and compensation awarded.

2. Learned counsel appearing for the appellant contends that the only issue arising in the present appeal is with regard to award of compensation

under the head of "Loss of Love and Affection".

3. Learned counsel submits that in view of the judgment of the Supreme Court dated 30th June, 2020 in "United India Insurance Company Vs.

Satinder Kaur @ Satwinder Kaur", (Civil Appeal No.2705/2020) no separate compensation could have been made awarded the head of "Loss

of Love and Affection" in addition to award of compensation under the head of "Loss of Consortium".

4. Learned counsel for respondent nos. 1 to 5 concedes to the said position and submits that he has no objection in case the award is modified and the

award of compensation under the head "Loss of Love and Affection" is deleted.

5. The Supreme Court in United India Insurance Company Vs. Satinder Kaur @ Satwinder Kaur (Supra) relying upon Magma General Insurance Co.

Ltd versus Nanu Ram & Ors (2018) 18 SCC 130 has held that consortium includes spousal consortium, parental consortium, as well as filial

consortium. Loss of love and affection is comprehended in loss of consortium. The Supreme Court directed that the Tribunals and High Courts to

award compensation for loss of consortium, which is a legitimate conventional head and held that there was no justification to award compensation

towards loss of love and affection as a separate head.

6. In the present case, the Tribunal has awarded separately under the head "loss of consortium" and "loss of love and affection", which

could not have been done.

7. In view of the above, the appeal is allowed to the said extent. Award dated 02.12.2019 is modified and compensation awarded under the head

"Loss of Love and Affection" is accordingly deleted.

8. Since there is no challenge to the remaining award, rest of the award is consequently upheld.

9. Learned counsel for the appellant submits that the compensation amount has already been attached in execution proceedings and deposited with the

Tribunal.

10. Tribunal shall disburse the awarded amount, minus the compensation awarded under the head "Loss of Love and Affection" and its interest

component, in terms of the scheme of disbursal stipulated in the award.

11. Balance amount, if any Tribunal shall be refund to the appellant.

12. The appeal is disposed of in the above terms.

13. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through email by the Court Master.