

+ MAC APP No. 29/2008

United India Insurance Co. Ltd. Appellant.
Through: Mr. Ravi Bakshi, Advocate
versus

CORAM:

1. Whether the Reporters of local papers may be allowed to see the judgment? No
2. To be referred to Reporter or not? No
3. Whether the judgment should be reported in the Digest? No

Counsel for the appellant contends that permission under Section 170 was taken by the appellant to take over the defence of the owner and driver of the offending vehicle and, therefore, the present appeal filed by the Insurance

Company is maintainable.

Before dwelling on the merits of the case, it would be relevant to reproduce the facts of the present.

Mr. Gulshan, aged 25 years, suffered fatal injuries in a road accident on 1.5.2000. Allegedly the accident was caused by Santosh Kumar (R-1) who was driving vehicle No. DL-6CD-0235 at a fast speed and in a rash and negligent manner. The deceased was running a meat shop and was earning Rs.5,000/- per month.

On merits, the contention of learned counsel for the appellant is that the appellant is aggrieved on account of the fact that the Tribunal has taken into account the future prospects of the deceased although no evidence to this effect was led by the respondents/claimants. Placing reliance on the judgment of the Apex Court in **Bijoy Kumar Dugar vs. Bidya Dhar Dutta** reported in 2006 (3) SCC 242, counsel for the appellant contends that without there being any reliable evidence on record, the Tribunal could not have granted the respondents benefit of future

prospects.

I have heard Sh. Ravi Bakshi, learned counsel for the appellant and have perused the record.

The Tribunal has taken the help of Minimum Wages Act to assess the income of the deceased at Rs.2,419/- as on the relevant date of accident. The Tribunal after taking into account the increase in the Minimum Wages, has taken the income of the deceased at Rs.3,468/- after doubling the income of the deceased and then by taking mean of the same.

I do not find any illegality or infirmity in the impugned award as this Court has already taken a view that the increase in the minimum wages are not akin to the future prospects. The increase in the minimum wages have been taken into consideration so as to meet the inflationary trend, price index and other economic factors. These factors do not form the basis for granting the benefit of future prospects.

In the light of the above discussion, I do not find any

merit in the submission of learned counsel for the appellant.

Dismissed.

February 13, 2008

KAILASH GAMBHIR, J

'raj'