

**IN THE HIGH COURT OF DELHI AT NEW DELHI****+ FAO.No.221/2002**

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Date of decision: 4<sup>th</sup> November, 2009

NATIONAL INSURANCE CO.LTD.& ORS. .... Appellant  
Through : Ms. Sonia Sharma, Adv.

versus

RAJ MALA & OTHERS ..... Respondents  
Through : Mr. Vivekanand Rana, Adv.  
for R-1.  
Mr. Aaditya Vijay Kumar, Adv.  
for R-5.

**CORAM :-****THE HON'BLE MR. JUSTICE J.R. MIDHA**

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|----|-----------------------------------------------------------------------|------------|
| 1. | Whether Reporters of Local papers may be allowed to see the Judgment? | <b>YES</b> |
| 2. | To be referred to the Reporter or not?                                | <b>YES</b> |
| 3. | Whether the judgment should be reported in the Digest?                | <b>YES</b> |

**JUDGMENT (Oral)**

1. The appellant has challenged the award of the learned Tribunal whereby compensation of Rs.3,57,000/- has been awarded to claimants/respondents No.1 to 3.

2. The accident dated 30<sup>th</sup> October, 1996 resulted in the death of Om Pal Singh. The deceased was survived by his widow, son and daughter who filed the claim petition before the learned Tribunal.

3. The deceased was aged 46 years at the time of the accident and was working as a gardener. The learned Tribunal took the minimum wages of Rs.3,151.50/- per month into consideration

and applied the multiplier of 13 to compute the loss of dependency at Rs.3,27,756/-. Rs.25,000/- has been awarded towards non-pecuniary compensation and Rs.4,000/- has been awarded towards the funeral expenses. The total compensation awarded is Rs.3,57,000/-.

4. The appellant has challenged the impugned award on the two grounds. The first ground of challenge relates to the quantum of compensation awarded to the claimants. The second ground of challenge is that the driver of the offending vehicle was not holding a valid driving licence at the time of the accident.

5. The first ground of challenge relates to quantum of compensation. It is noted that the appellant had not taken over the defence of the owner and driver under Section 170 of the Motor Vehicles Act and, therefore, the challenge with respect to the quantum of compensation is not open to the appellant. Notwithstanding the bar of Section 170 of the Motor Vehicles Act, the amount awarded by the learned Tribunal is just, fair and reasonable.

6. With respect to the second ground of challenge relating to the driving licence of the offending vehicle, the appellant has not led any evidence to prove that the driver of the offending vehicle was not holding a valid driving licence at the time of the accident and, therefore, there is no infirmity in the finding of the learned Tribunal.

7. For all the aforesaid reasons, the appeal is dismissed.

8. The appellant has deposited the award amount with the learned Tribunal in terms of the order dated 24<sup>th</sup> April, 2002 which has been released to the claimants against security.

9. The security bond given by the claimants in terms of the order dated 24<sup>th</sup> April, 2002 is discharged and the learned Tribunal is directed to return back the same to the claimants.

**NOVEMBER 04, 2009**  
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**J.R. MIDHA, J**