

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

Date of Decision: 21st November, 2011

+ **MAC APP.661/2011**

SMT. REKHA & ORS. Appellants

Through: Mr. Manish Mannie, Advocate

Versus

NITIN BADAK & ORS. Respondent

Through: Mr. D.K. Singh, Advocate for R-3/Insurance Company.

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

1. Whether reporters of local papers may be allowed to see the Order?
2. To be referred to the Reporter or not?
3. Whether the Order should be reported in the Digest?

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. This appeal is for enhancement of amount of compensation in respect of death of Tejender Pal Singh who was aged about 38 years and six months at the time of the accident which took place on 19.04.2010. The Motor Accidents Claim Tribunal (the Tribunal) by the impugned award dated 28.02.2011 granted compensation of ₹ 13,25,000/-.
2. The Appellants' grievance is that the multiplier applied was on

the lower side and future prospects were not considered while calculating the annual income of the deceased.

3. Deceased owned a Vikram scooter and used to supply the goods to the shopkeepers. The Appellants' claimed deceased's income to be ₹ 9,000/- per month. Evidence was led before the Tribunal that the deceased was spending ₹ 5278/- per month towards monthly education of two children and electricity charges in the house. Thus, instead of ₹ 9,000/-, the Tribunal took the monthly income of the deceased to be ₹ 10,000/-, deducted one-fourth towards personal expenses on the basis of *Sarla Verma & Ors. v. Delhi Transport Corporation (2009) 6 SCC 121* and applied the multiplier of 14.
4. The learned counsel for the Appellants relied on *Dalvinder Kaur & Ors. v. United India Insurance Company Ltd., 2011 ACJ 2133* to contend that future prospects of the deceased ought to have been considered even in the case of self employed person. No evidence as to future prospects was produced in this case.
5. In *Dalvinder Kaur (supra)* the deceased was working as a building contractor and was an income tax assessee. In this case, the deceased owned a Vikram scooter to supply goods to the shopkeepers. Thus, in the absence of any evidence as to the future prospects, the same could not have been awarded. *Dalvinder Kaur (supra)* is not attracted to the facts of the

present case.

6. Deceased's date of birth was 30.10.1971 and thus he was less than 39 years on the date of the accident which took place on 19.04.2010. The appropriate multiplier to be applied in this case was 15 instead of 14. The Appellants are, therefore, entitled to an additional compensation of ₹ 90,000/- (Rupees ninety thousand only) i.e. $(10,000 \times \frac{3}{4} \times 12 \times 1)$.
7. The additional compensation shall carry interest @ 7.5% per annum from the date of filing of the petition till realization of the amount. Respondent No.3 National Insurance Company Limited is directed to deposit the enhanced compensation in the shape of an FDR for a period of two years in the name of the Appellant in UCO Bank, Delhi High Court Branch, New Delhi.
8. The appeal is allowed and the impugned award is modified to the extent indicated above. No costs.
9. Copy of the order may be sent to the trial court for compliance.

(G.P. MITTAL)
JUDGE

NOVEMBER 21, 2011

vk