

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

Date of Decision: 16th November, 2012

+ **MAC. APP. 488/2005**

PARVATI DEVI Appellant
Through Mr.O.P.Mannie, Advocate

versus

BALDEV SINGH & ORS. Respondents
Through Mr.Pankaj Seth, Advocate for R-2
Insurance Company

CORAM:
HON'BLE MR. JUSTICE G.P.MITTAL

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. The Appellant is aggrieved by an order dated 07.03.2005 passed by the Motor Accident Claims Tribunal (the Claims Tribunal) whereby a Claim Petition filed under Section 163-A of the Motor Vehicles Act, was dismissed solely on the ground that the Claim Petition was not maintainable as the deceased's income was claimed to be more than ₹ 40,000/- per annum.

2. It is urged by the learned counsel for the Appellant that before the Claims Tribunal the income of the deceased as a driver was claimed at ₹ 3,000/- per month. No proof of the deceased's income was filed by the Appellant. The Appellant Parvati Devi, as her own witness testified that her son was earning ₹ 5,000-6,000/- per month, that is why the Claim Petition was dismissed.
3. In the Claim Petition, the income of the deceased was claimed as ₹ 3,000/- per month but there was no cogent evidence produced in support thereof.
4. The Appellant Parvati Devi was entitled to compensation only on the basis of the minimum wages of an unskilled worker, that is, ₹ 1,545/- per month. Obviously, this amount was much less than the capped income of ₹ 40,000/- per annum as mentioned in the second schedule.
5. In view of this the Appeal is allowed; the impugned order is set aside and a compensation of ₹ 1,97,760/- is awarded towards loss of dependency $(1545 \times \frac{2}{3} \times 12 \times 16)$.
6. The deceased was a bachelor. The Appellant would be further entitled to a sum of ₹ 2,000/- towards loss to estate and ₹ 2,500/- towards funeral expenses.
7. The overall compensation thus comes to ₹ 2,02,260/- which shall carry interest @ 7.5% per annum from the date of filing of the Petition till its payment.

8. The award amount shall be deposited with the Claims Tribunal within six months and shall be equally proportioned amongst the Appellants.
9. Pending Applications stand disposed of.

(G.P. MITTAL)
JUDGE

NOVEMBER 16, 2012

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