

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

Date of decision: 2nd November, 2012

+ **MAC APP.868/2012**

SMT. SHIMLESH DEVI & ORS. Appellants
Through: Mr. O.P. Mannie, Adv.

Versus

SH. SUKHBIR SINGH & ORS. Respondents
Through: Ms. Shantha Devi Raman, Adv. for R-3.

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

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. The Appeal is for enhancement of compensation of ₹6,18,503/- awarded in favour of the Appellant for the death of Samunder Pal who died in a motor vehicle accident which occurred on 29.01.2008.
2. During inquiry before the Claims Tribunal it was proved that the deceased was working as a Conductor on contract basis with the Delhi Transport Corporation (DTC) and was getting a salary of ₹4895/- per month. The Claims Tribunal found that there were five dependents, therefore, it proceeded to deduct one-fourth of the deceased's income towards his personal and living expenses and applied the multiplier of 13, as the deceased was aged 46 years, to compute the loss of dependency.
3. The only ground of challenge raised by the Appellants is that even in the absence of any evidence with regard to future prospects, the Appellants were entitled to an addition of 30% on account of inflation on the basis of

the report of the Supreme Court in *Santosh Devi v. National Insurance Company Ltd. & Ors.*, 2012 (4) SCALE 559.

4. This Court in *Rakhi v. Satish Kumar & Ors.* (MAC. APP. 390/2011) decided on 16.07.2012, referred to the reports of the Supreme Court in *General Manager, Kerala State Road Transport Corporation, Trivandrum v. Susamma Thomas (Mrs.) and Ors.* (1994) 2 SCC 176, *Sarla Dixit v. Balwant Yadav*, (1996) 3 SCC 179, *Bijoy Kumar Dugar v. Bidya Dhar Dutta & Ors.*, (2006) 3 SCC 242, *Sarla Verma & Ors. v. Delhi Transport Corporation & Anr.*, (2009) 6 SCC 121 and *Santosh Devi v. National Insurance Company Ltd. & Ors.*, 2012 (4) SCALE 559 and held that even in the absence of any evidence with regard to future prospects *Santosh Devi* provides for an increase of 30% towards inflation in the victim's income in case of self employed persons and persons having fixed income.
5. In view of the above, the Appellants are entitled to an increase of 30% in the income to compute the loss of dependency.
6. The loss of dependency thus comes to ₹ 7,39,053/- (4859/- + 30% x 12 x 3/4 x 13) as against ₹ 5,68,503/- awarded by the Claims Tribunal.
7. Consequently, there is an enhancement of ₹1,70,550/- in the overall compensation awarded which shall carry interest @ 7.5% per annum from the date of filing of the Petition till its payment.
8. The enhanced compensation shall enure for the benefit of the First Appellant, the deceased's widow.

9. The enhanced compensation shall be deposited with the Claims Tribunal by Respondent No.3 IFFCO Tokio General Insurance Company Limited within six weeks.
10. The Appellants shall make up the deficiency of ₹250/- in the Court fees within four weeks.
11. The Appeal is allowed in above terms.
12. Pending Applications also stand disposed of.

(G.P. MITTAL)
JUDGE

NOVEMBER 02, 2012

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