

\$~18

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

Date of decision: 18th October, 2012

+ **MAC.APP. 1130/2012**

PREM DAHIYA

..... Appellant

Through

Mr.O.P. Mannie, Advocate

versus

ASHOK KUMAR & ANR.

..... Respondents

Through

Mr. Pankaj Seth, Advocate for the
Respondent No.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. Issue Notice.
2. Mr. Pankaj Seth, Advocate appearing on behalf of the Respondent No.2 National Insurance Company Ltd. accepts notice.
3. It is stated by the learned counsel for the Appellant that the Compensation of ₹3,24,500/- awarded in favour of the Appellant stands paid. Since the Appeal involves a short question regarding determination of

compensation in a Claim Petition under Section 163-A of the Motor Vehicles Act, 1988(the Act), the Appeal can be finally disposed of.

4. The Appellant Smt. Prem Dahiya, mother of the deceased Anuj Dahiya who died on 13.03.2006 takes exception to an impugned judgment dated 01.06.2012 solely on the ground that in a Claim Petition under Section 163-A, the multiplier was to be as per the deceased's age as mentioned in Second Schedule and not as per the Claimants.
5. This Court in *New India Assurance Co. Ltd. v. Pitamber & Ors.*(MAC.APP.304/2009) decided on 23.01.2012 held that in a Petition under Section 163-A, the compensation has to be awarded strictly in accordance with the Second Schedule of Section 163-A of the Act and the multiplier also has to be as per the Second Schedule. Applying the ratio of *Pitamber*, the loss of dependency comes to ₹4,53,334/- (₹40,000/- x $\frac{2}{3}$ x 17). The Appellant is further entitled to a sum of ₹2,000/- towards funeral expenses and ₹2,500/- towards loss to estate. The overall compensation thus comes to ₹4,57,834/-
6. The compensation thus stands enhanced by ₹1,33,334/- which shall carry interest @ 9% per annum as granted by the Claims Tribunal from the date of the filing of the Petition till its payment.
7. The Respondent No.2 National Insurance Company Ltd. is directed to deposit the enhanced amount of ₹1,33,334/- along with interest with the Claims Tribunal within six weeks.
8. Seventy Five per cent of the enhanced amount shall be held in fixed deposit for a period of three years. Rest shall be released on deposit.

9. The Appeal is allowed in above terms.
10. Pending Applications stand disposed of.

(G.P. MITTAL)
JUDGE

OCTOBER 18, 2012

pst