

\$~19

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

Date of decision: 11th October, 2012

+ **MAC.APP. 1139/2011**

ERAM REHMAN & ORS. Appellants
Through Mr.Amitesh S. Bakshi, Advocate

versus

UNION OF INDIA & ANR Respondents
Through Ms.Sweety Manchanda, Standing
Counsel for Respondent No.1/UOI.

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 ₹15,26,000/- awarded by the Motor Accident Claims Tribunal (the Claims Tribunal) for the death of Ejaz Asghar who died in a motor vehicle accident which occurred on 05.10.2005.
2. In the absence of any Appeal by the driver, owner or the Insurance Company, the finding on negligence has attained finality.
3. During inquiry before the Claims Tribunal, it was claimed that the deceased was MBA and a very highly qualified person and was working as a consultant with various companies. His income was claimed to be

between ₹9,000/- to 15,000/- per month. The Appellants proved two certificates to show that he was working as a consultant with M/s Shipping Services Pvt. Ltd. since May, 2000 and was getting consultancy fee of ₹6,000/- per month. Similarly, a certificate dated 31.01.2006 was proved to show that he was getting a consultancy fee of ₹3,000/- per month from Paradise Cargo Services since the year 2003. The Claims Tribunal accepted this income of the deceased, deducted 1/5th towards personal and living expenses considering the number of dependents to be eight, and applied a multiplier of 15 according to the age of the deceased to compute the loss of dependency as ₹12,96,000/-. A compensation of ₹2,30,000/- was awarded towards non-pecuniary heads to compute an overall compensation of ₹15,26,000/-.

4. It is urged by the learned counsel for the Appellant that as the deceased was an MBA from Indian Institute of Business Management, Patna, the Appellant was entitled to an addition of 50% towards future prospects.
5. On the other hand, the learned counsel for the Respondent Union of India urges that a compensation of ₹2,00,000/- awarded towards loss of love and affection was quite high and the Respondent can resist the Appeal without filing any Cross-Objection under Order XLI Rule 22 CPC. A reference may also be made to a judgment of the Supreme Court in *Ravinder Kumar Sharma v. State of Assam & Ors.*, AIR 1999 SC 3571.
6. The deceased was a self-employed person. His income at the rate of ₹9,000/- per month was duly proved. There was no evidence with regard to his future prospects. At the same time, he was a highly qualified person and was, therefore, entitled to an addition of 30% on account of

inflation/future prospects on the basis of the judgment of the Supreme Court in *Santosh Devi v. National Insurance Company Ltd. & Ors.*, 2012 (4) SCALE 559. The loss of dependency thus comes to ₹16,84,800/- (₹9,000/- x 12 + 30% x 4/5 x 15).

7. Considering the number of dependents to be eight, the Claims Tribunal awarded a compensation of ₹2,00,000/- towards loss of love and affection. Loss of love and affection can never be measured in terms of money. Thus, uniformity has to be adopted by the Courts while granting non-pecuniary damages. The Supreme Court in *Sunil Sharma v. Bachitar Singh* (2011) 11 SCC 425 and in *Baby Radhika Gupta v. Oriental Insurance Company Limited* (2009) 17 SCC 627 granted ₹ 25,000/- only (in total to all the claimants) under the head of loss of love and affection. Thus, I would reduce the compensation under this head to ₹ 25,000/- only.
8. The overall compensation thus comes to ₹17,39,800/-.
9. The enhanced compensation of ₹2,13,800/- shall carry interest @ 9% per annum as awarded by the Claims Tribunal. 80% of the enhanced compensation shall be payable to the First Appellant and 20% to the Second Appellant. The compensation payable to the First and Second Appellant shall be held in fixed deposit in a nationalized bank for a period of five years and two years respectively. The Appellants shall be entitled to quarterly interest thereon.
10. The enhanced compensation of ₹2,13,800/- along with interest shall be deposited by the Respondent No.1 with the Claims Tribunal within six weeks.

11. The Appeal is allowed in above terms.
12. Pending Applications stand disposed of.

(G.P. MITTAL)
JUDGE

OCTOBER 11, 2012

pst