

\$~28

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

% *Judgment delivered on: 25th July, 2013*

+ **MAC.APP. 1177/2012**

BHARO CHAUDHARY AND ANR. Appellants
Through: Mr. Sekhar Aggarwal, Adv.

versus

RAKESH KUMAR AND ORS. Respondents
Through: Mr. Manoj Bhandari, Adv. for
R3.

CORAM:
HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. Vide the instant appeal, appellant has assailed the judgment dated 16.08.2012, whereby, ld. Tribunal has granted total compensation of Rs.3,40,300/- with interest @ 7.5% per annum from the date of filing of the petition till realization.
2. Instant appeal has been filed for enhancement of the compensation amount.
3. Ld. Counsel appearing on behalf of the appellant submits that ld. Tribunal has failed to consider the salary of the deceased, who was working as a TSR mechanic and was earning Rs.12,000/- per month at the time of accident.

4. PW3 Bharo Chaudhary, father of the deceased stated that his son was working as TSR mechanic and was earning Rs.12,000/- per month. He was giving Rs.9,000/- towards household expenses.

5. During cross-examination, PW3 deposed that he did not have any document regarding earning of the deceased. Further stated that he was working as a labourer and his wife was a housewife.

6. In view of the contradictory statements of PW3, i.e., father of the deceased and in the absence of proof of salary, Id. Tribunal has considered the salary as Rs.3,500/- per month as per the minimum wages of unskilled persons.

7. On this issue, I do not find any discrepancy in the order passed by the Ld. Tribunal. Therefore, I affirm the same.

8. Ld. Counsel for the appellant further submits that Id. Tribunal has granted compensation on a very lower side qua non-pecuniary heads. He submits that the compensation on account of loss of love and affection, loss of estate and towards funeral expenses Id. Tribunal has granted Rs.25,000/-, Rs.10,000/- and Rs.5,000/- respectively.

9. He has relied upon a case of ***Rajesh and Ors. v. Rajbir Singh and Ors. 2013 (6) Scale 563*** wherein the Apex Court has granted compensation as under:

“1. Loss of Love and Affection	:	Rs.1,00,000/-.
2. Towards funeral expenses	:	Rs. 25,000/-”

10. In find force in the submission of Id. Counsel for the appellant. Keeping the dictum of ***Rajesh (Supra)*** into view, I enhance the compensation in favour of the respondents / claimants as under:

- “1. *Loss of Love and Affection : From Rs.25,000 to Rs.1,00,000/-.*
2. *Towards funeral expenses : From Rs. 5,000 to Rs.25,000/-.*”

11. In view of above, I have enhanced compensation to the tune of Rs.95,000/- (Rs.4,35,300-Rs.3,40,300). I here make it clear that the enhanced amount shall carry interest @ 7.5% per annum from the date of filing the petition till the realisation of the amount.

12. In view of the above, instant appeal is allowed.

13. Respondent / Insurance Company is directed to pay the enhanced amount within four weeks from today with Registrar General of this Court, who shall thereafter release the same in favour of the appellants / claimants.

SURESH KAIT, J

JULY 25, 2013

Jg