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

Decided on: 26th February, 2015

\+ **MAC.APP. 986/2013**

SURENDER KUMAR & ANR ..... Appellants
Through: Mr.R.K. Bachchan, Advocate

versus

VIRESH KUMAR & ORS ..... Respondents
Through: Ms. Arpan Wadhawan, Advocate for Ms. Manjusha Wadhawa, Advocate for Respondent no.3 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 appeal is for enhancement of compensation of Rs.4,20,000/- awarded by the Motor Accident Claims Tribunal (the Claims Tribunal) in favour of the Appellants for the death of Akshay Kankarwal who died in a motor vehicular accident which occurred on 18.11.2011 at about 7:45 a.m.

2. Upon finding that the accident was caused because of rash and negligent driving of bus no.DL-1P-B-9690 driven by Respondent no.1, the Claims Tribunal proceeded to award compensation on the notional income of Rs.15,000/- per month although deceased Akshay Kankarwal was only a student of 11th Standard and aged 16 years at the time of his death.

3. The learned counsel for the Appellants points out that the compensation should have been awarded on the basis of his qualification and some addition towards future prospects ought to have been made.

4. On the other hand, the learned counsel for Respondent no.3 Insurance Company urges that the Claims Tribunal noticed that there was nothing outstanding in the deceased's academic record to indicate that the deceased had good future prospects.

5. It goes without saying that the deceased was a matriculate and was a young boy. He belonged to the lower strata of the society and would have started earning in a year or two. In view of this, the minimum wages of a matriculate ought to have been

taken to compute the loss of dependency. As far as future prospects are concerned, in the absence of any evidence that the deceased was outstanding in his academic performance, addition of future prospects was not permissible. On making a deduction of 50% towards personal and living expenses in view of *Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr., (2009) 6 SCC 121*, the loss of dependency will come to Rs.7,78,752/-(Rs.8,112/- x 12 ÷ 2 x 16)

6. In addition, in view of the judgment in *Rajesh & Ors. v. Rajbir Singh & Ors., (2013) 9 SCC 54,* I further award a sum of Rs.1,00,000/- towards loss of love and affection, Rs.25,000/- towards funeral expenses and Rs.10,000/- towards loss to estate.

7. The overall compensation therefore, comes to Rs.9,13,752/-.

8. The compensation is thus, enhanced by Rs.4,93,752/- which shall carry interest @ 7.5% per annum from the date of filing of the claim petition till its payment.

9. Respondent no.3 National Insurance Company Ltd. is directed to deposit the enhanced compensation with the Claims Tribunal

within six weeks, failing which the Appellants shall be entitled to interest @ 12% per annum from the date of this judgment.

10. 50% of the enhanced compensation shall be held in Fixed Deposit for two and four years respectively in equal proportion; rest shall be released on deposit.

11. The appeal is allowed in above terms.

12. Pending applications stand disposed of.

(G.P. MITTAL)
JUDGE

FEBRUARY 26, 2015
pst