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

Decided on: 18th February, 2015

\+ **MAC.APP. 115/2013**

PAPPU AND ORS. ..... Appellants
Through: Mr. Vijay Kumar Wadhwa, Adv.

versus

SANJAY AND ORS. ..... Respondents
Through: Ms. Manjusha Wadhwa, Adv. with Ms. Darpan Wadhawan, 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 Rs.75,000/- awarded by the Motor Accident Claims Tribunal (the Claims Tribunal) in favour of the Appellants (the Claimants) for the death of Bhikam Singh, who died in a motor vehicular accident which occurred on 08.02.2000.

2. On appreciation of evidence, the Claims Tribunal found that the Appellants, who are the major son and two daughters of the deceased were not financially dependent on the deceased and

therefore, the Claims Tribunal awarded a sum of Rs.50,000/- towards loss of love and affection, Rs.10,000/- towards loss to estate, Rs.10,000/- towards funeral expenses and Rs.5,000/- towards medical expenses incurred for the treatment of the deceased before he succumbed to the injuries to arrive at a total compensations of Rs. 75,000/-.

3. The only ground urged by the learned counsel for the Appellants is that though the Appellants were not financially dependent upon the deceased but surplus money was being spent by deceased Bhikam Singh on his children, who are his son and two married daughters.

4. Normally, only a sum of about 15% is awarded as loss to estate when the legal heirs are not financially dependent upon the deceased as held in *Madhya Pradesh State Road Transport Corporation v. Sudhakar, 1977 ACJ 290 (SC)* and *A. Manavlagan v. A. Krishnamurthy, 2005 ACJ 992 (Karnataka).*

5. At the same time, it has to be noticed that Indian society is a conservative society and even if children are not financially

dependant, the parents do spend their excess money on the children.

6. The deceased was working as a painter (doing white wash, paint, *etc.*). In fact, the accident took place while the deceased was doing the job. This part of the testimony of PW-1 was not challenged.

7. I would assess the monthly income of a person performing the job of white wash/paint in the year 2000 to be at least Rs.100/- per day or Rs.2,500/- per month (on 25 working days).

8. In the facts and circumstances of the case, it would be appropriate to take 1/3rd of the income of the deceased as savings which will come to the Appellants as loss to estate. Accordingly, I would award a sum of Rs.1,10,000/- (2500/- x 12 x 1/3 x 11) to the Appellants as loss to estate.

9. In addition, the Appellants are entitled to a sum of Rs.1,00,000/- towards love and affection, Rs.25,000/- towards funeral expenses and Rs.5,000/- as medical expenses. The overall compensation thus, comes to Rs.2,40,000/-.

10. The compensation is therefore, enhanced by Rs.1,65,000/- which shall carry interest @ 7.5% per annum from the date of filing of the Claim Petition till its payment.

11. Respondent no.3 Insurance Company is directed to deposit the enhanced compensation along with proportionate interest within four weeks, failing which the Appellants would be entitled to interest @ 12% per annum from the date of this judgment.

12. The enhanced compensation shall be apportioned equally amongst the three Appellants.

13. 50% of the enhanced compensation shall be held in fixed deposit for a period of one year. Rest shall be released on deposit.

14. The appeal is allowed in above terms.

15. Pending applications also stand disposed of.

16. *Dasti.*

(G.P. MITTAL)
JUDGE

FEBRUARY 18, 2015
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