

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

Date of decision: January 23, 2017

+ **MAC.APP. 532/2008**

ELIJAVED MINZ & ORS. Appellants
Through: **Mr. S.N. Prashar, Advocate**

Versus

OM PARKASH & ANR. Respondents
Through: **Mr. D.K. Sharma, Advocate.**

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
ORAL

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1. Impugned Award of 24th March, 2008 grants compensation of ₹14,61,000/- with interest @7.5% after deducting ₹50,000/- towards interim relief already granted to appellants. The breakup of compensation awarded is as under:-

Loss of dependency	₹13,96,000/-
Loss of Love and affection	₹50,000/-
Funeral Expenses	₹5,000/-
Loss of estate	₹5,000/-
Medical expenses	₹5,000/-
Total compensation	₹14,61,000/-

2. The factual background of this case already stands noted in the impugned Award and so, needs no reproduction. Suffice to note that Panama Oraon, aged 38 years, a Head Constable in Delhi Police, had died in a road accident on 30th June, 2005. The deceased has left behind his parents, wife and an 11 years old daughter. While relying upon the evidence of wife of the deceased and Sub-Inspector –*Reeta (PW-3)*, who has proved the service record of the deceased, and other formal witnesses, impugned Award has been rendered.

3. In this appeal, enhancement of compensation is sought by learned counsel for appellant by submitting that no compensation towards future prospects has been granted and compensation awarded under the non-pecuniary heads is on the lower side and so, it needs to be suitably enhanced. On the other hand, learned counsel for respondent-insurer supports the impugned Award and submits that no case for enhancement of compensation is made out.

4. Upon hearing and on perusal of the impugned Award and evidence of Sub-Inspector – *Reeta (PW-3)*, I find that in normal course, the deceased would have attained the rank of Sub-Inspector before retirement and so, in the light of Supreme Court's decision in *Sarla Verma (Smt.) and Others v. Delhi Transport Corporation and Another*, (2009) 6 SCC 121, addition of 50% towards future prospects deserves to be made. Accordingly, to assess the loss of dependency while taking the income of deceased as ₹10,900 p.m. 50% is added towards *future prospects*. The age of deceased was 38 years at the time of accident, so multiplier of 16 is to be applied and after deducting 1/3rd towards personal expenses, his

income is assessed as follows:-

$$₹10,900 + ₹5450 \times 16 \times 12 \times \frac{2}{3} = ₹20,92,800/-.$$

5. So far as compensation awarded for *love and affection* and *medical expenses* is concerned, I find it to be reasonable but compensation awarded towards *funeral expenses* and *loss of estate* appear to be on the lower side. So, *funeral expenses* are enhanced from ₹5,000/- to ₹25,000/- and compensation for *loss of estate* is enhanced from ₹5,000/- to ₹10,000/-. Thus, the total compensation payable to appellants re-assessed as under:-

Loss of dependency	₹20,92,800/-
Loss of Love and affection	₹50,000/-
Funeral Expenses	₹25,000/-
Loss of estate	₹10,000/-
Medical expenses	₹5,000/-
Total compensation	₹21,82,800/-

6. The enhanced compensation of ₹7,21,800/- with interest @7.5% p.a. from the date of filing of claim petition up to date be deposited by respondent-insurer with the learned Motor Accident Claims Tribunal within eight weeks failing which, it will carry interest @ 9 % p.a. till realization. The deposited amount be directly released into bank accounts of appellants-claimants in the same manner and ratio as indicated in the impugned Award. Thereafter, it be converted into fixed deposit for a period of three years. The interest accrued on the fixed deposit receipts be deposited in the bank account of appellants-claimants, who shall be at

liberty to seek its premature encashment upon filing an application before the Motor Accident Claims Tribunal, if so warranted.

7. Impugned Award is accordingly modified and the appeal is disposed of.

(SUNIL GAUR)
JUDGE

JANUARY 23, 2017

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