

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

Date of decision: March 22, 2017

+ **MAC.APP. 890/2016**

MEENAKSHI ASIJA & ANR.Appellants

Through: Ms. Neha Jain and Mr. Ankit
Sharma, Advocates

Versus

DHARAMJIT & ORS (THR ROYAL SUNDRAM ALLIANCE
INSURANCE COMPANY LIMITED)Respondents

Through: Mr. Pankaj Gupta, Advocate for
Ms. Suman Bagga, Advocate for
respondent-Insurer

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
ORAL

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1. Vide impugned Award of 13th May, 2016, Motor Accident Claims Tribunal, West District, Tis Hazari Courts, Delhi (*hereinafter referred to as 'Tribunal'*) has granted compensation of ₹16,46,488/- with interest @ 9% *per annum* to appellants-Claimants on account of death of *Dinesh Asjia*, aged 33 years, a proprietor of Blazeflash Courier Limited Franchise in a road accident on 30th November, 2013.

2. In this appeal, enhancement of compensation is sought by appellants-Claimants. The facts as noticed in impugned Award need no reproduction. Suffice to note that apart from evidence of widow of deceased, there is evidence of eye-witness-*Baljeet Singh (PW-2)*. On

behalf of respondent-Insurer, *Prashant Pratap Singh* (R3W1) has deposed regarding insurance policy in question. On the strength of evidence on record, impugned Award has been rendered.

3. As per order of 23rd January, 2017, service is complete.

4. To seek enhancement of compensation, it is submitted by learned counsel for appellants-Claimants that the Income Certificate (Ex.PW1/10) remains unchallenged but it has not been considered by learned Tribunal, who has erroneously assessed the income of deceased on minimum wages payable to a matriculate. So, it is submitted by appellants' counsel that the income of deceased ought to be reassessed in light of the Income Certificate (Ex.PW1/10) and the compensation granted ought to be suitably enhanced.

5. On the contrary, learned counsel for respondent-Insurer supports the impugned Award and submits that no case for enhancement of compensation is made out. Nothing else is urged by either side.

6. Upon hearing and on perusal of impugned Award and the evidence on record, this Court finds that deceased was a proprietor of Courier Franchise and as per his income certificate of 8th February, 2014 (*Ex. PW1/10*), he was earning ₹15,000/- to ₹20,000/- p.m.. In the considered opinion of this Court, the income certificate of 8th February, 2014 (*Ex. PW1/10*) has been issued after his death and so, learned trial court has rightly discarded it and has chosen to assess the income of deceased on minimum wages as payable to a matriculate.

7. The compensation granted under the non-pecuniary heads is certainly on the lower side. Supreme Court in *Asha Verman & ors. Vs.*

Maharaj Singh & ors. (2015) 11 SCC 389 has granted compensation of ₹1,00,000/- under the head of “*loss of estate*” and under the head of “*loss of love and affection*”, ₹1,00,000/- each to minor children and ₹50,000/- each to parents has been granted. While relying upon Supreme Court’s decision in *Asha Verman (supra)*, compensation awarded under the head of “*loss of estate*” is enhanced from ₹10,000/- to ₹1,00,000/- and under the head “*loss of love and affection*” it is enhanced from ₹1,00,000/- to ₹2,00,000/-.

8. The reassessed compensation payable to respondents-Claimants is as under: -

<i>Loss of dependency</i>	₹14,11,488/-
<i>Loss of love and affection to minor child</i>	₹1,00,000/-
<i>Loss of love and affection to parents</i> (₹50,000/- to each parent)	₹1,00,000/-
<i>Funeral expenses</i>	₹25,000/-
<i>Loss of estate</i>	₹1,00,000/-
<i>Loss of consortium</i>	₹1,00,000/-
<i>Total compensation</i>	₹18,36,488/-

9. In the light of aforesaid, the compensation granted to appellants-Claimants is enhanced from ₹16,46,488/- to ₹18,36,488/-. Respondent-Insurer is granted eight weeks’ time to deposit the enhanced compensation of ₹1,90,000/- along with upto date interest @ 9% *per annum* from the date of filing of the claim petition till the date of deposit with learned Tribunal. After furnishing bank account details by appellants-Claimants, learned Tribunal shall transmit enhanced compensation into the bank accounts of appellants-Claimants in the same

ratio as indicated in the Award in question. Recovery rights granted to the Insurer by learned Tribunal against the driver and owner of vehicle in question shall cover the entire awarded compensation including the enhanced compensation.

10. The appeal stands accordingly disposed of while modifying impugned Award in aforesaid terms.

(SUNIL GAUR)
JUDGE

MARCH 22, 2017
s/r

