IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.584 of 2003(O&M) and
XOBJC No.46-CII of 2003

Date of Decision: 01.03.2019

National Insurance Co. Ltd. .....Appellant

Versus

Smt. Pushpa Devi and others .....Respondents

Coram: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present: Mr. Neeraj Khanna, Advocate
for the appellant-Insurance Company.

Mr. N.R. Dahiya, Advocate
for respondents No.1 to 3/cross-objectors.

Respondents No.4 and 5 did not appear
despite service.

None for respondent No.6 despite being
informed about the date through e-mail.

ARUN KUMAR TYAGI, J.

1. This order disposes of FAO No.584 of 2003 (O&M) filed by the National Insurance Company Limited seeking setting aside of the impugned award dated 28.09.2002 passed by the Motor Accident Claims Tribunal, Bhiwani (for short 'the Tribunal') passed in **MACT case No.151 of 2000 titled Smt. Pushpa Devi and others Vs. Sudhir Singh and others** and Cross-Objections No.46-CII of 2003 filed by the claimants seeking enhancement of the compensation awarded on account of death of Naresh Kumar due

to injuries suffered in motor vehicle accident which took place on 11.11.1999.

2. The parties are referred in the order as per their impleadment in the claim petition before the Tribunal.

3. Briefly stated, the facts relevant for disposal of the present appeal and cross-objections are that the claimants-widow, minor son and daughter of deceased-Naresh Kumar filed abovesaid claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the M.V. Act') on the averments that on 11.11.1999, Naresh Kumar was going from Delhi to Tosham in Tata Sumo bearing registration No.DL-4CE/4608 driven by Randhir Singh husband of respondent No.3-Smt. Mukesh and son of respondent No.4-Kulbir Singh in rash and negligent manner. At about 10:00 P.M., when the vehicle reached near Radha Sawami Ashram, Bhiwani, it struck with some moving object due to which Naresh Kumar, who was sitting on the rear seat of driver-Randhir Singh as well as Randhir Singh-driver suffered injuries and died. The moving object which had collided with the Tata Sumo did not stop at the site of accident and fled away towards Rohtak. Naresh Kumar was a permanent employee of the Health Department of the State of Haryana and was posted, as such, in Community Health Centre, Manheru, District Bhiwani. He was drawing salary of Rs.6,303/- per month. The claimants, being dependent on the deceased-Naresh Kumar, sought award of compensation to the tune of Rs.15,00,000/- with costs and interest @ 18% per annum.

4. The claim petition was contested by the respondents in terms of their separate written statements. Respondent No.1-Sudhir Singh owner of Tata Sumo bearing registration No.DL-4CE/4608 pleaded that deceased was not travelling in Tata Sumo and the claimants have no *locus standi* or cause of action to file the present claim petition. Respondent No.2-Insurance Company took objection as to Randhir Singh-driver not having valid and effective driving licence at the time of accident and deceased-Naresh Kumar being a paid passenger. Respondents No.3 and 4 denied their liability and pleaded Insurance Company to be liable for payment of compensation.

5. Issues were framed and evidence produced by the parties was recorded by the Tribunal.

6. On perusal of the material on record and consideration of submissions made by learned Counsel for the parties, the Tribunal held that Naresh Kumar died due to rash and negligent driving by driver-Randhir Singh of Tata Sumo No.DL-4CE/4608, owned by respondent No.1-Sudhir Singh and insured with respondent No.2-National Insurance Co. Ltd. and that driver-Randhir Singh had valid and effective licence at the time of the accident. The Tribunal held deceased-Naresh Kumar to be aged about 30 years, assessed his income as Rs.6,303/- per month, deducted 1/3rd towards personal expenses, applied multiplier of 18 to the multiplicand of Rs.50,400/-, determined Rs.9,07,200/- as annual loss of dependency and by adding amount of Rs.2,000/- as

funeral expenses, amount of Rs.2,500/- on account of loss of estate and amount of Rs.5,000/- towards loss of consortium payable to the widow, awarded total compensation of Rs.9,16,700/- with costs and interest at the rate of 9% per annum.

7. Feeling aggrieved, Insurance Company has filed the present appeal for setting aside the impugned award and dismissal of the claim petition while the claimants have filed the cross-objections for enhancement of the compensation awarded.

8. I have heard learned counsel for the parties and have gone through the relevant record.

9. Mr. Neeraj Khanna, learned Counsel for the Insurance Company has argued that the onus of proving negligence on the part of Randhir Singh-driver of Tata Sumo was on the claimants but the claimants have failed to discharge the same. The witnesses examined by the claimants did not witness the accident and have not deposed as to rash and negligent driving of Tata Sumo by driver-Randhir Singh. The doctrine of *res ipsa loquitur* is not applicable to the facts of the present case where no fault has been attributed to the driver of Tata Sumo. Since, the claimants could not prove that the accident had taken place due to negligence of the driver of Tata Sumo, they are not entitled to payment of any compensation and the claim petition has been wrongly allowed. The impugned award is liable to be set aside and the claim petition may be dismissed with costs.

10. On the other hand, Mr. N.R.Dahiya, learned Counsel for the claimants/cross-objectors has argued that the claimants were required to prove only the accident and they were not bound to prove as to how accident had taken place. The doctrine of *res ipsa loquitur* applies to the facts of the case which establish that the accident occurred due to rash and negligent driving of Tata Sumo by driver-Randhir Singh. Naresh Kumar died due to rash and negligent driving of Tata Sumo by driver-Randhir Singh and the claimants are entitled to award of compensation because of his death. The claim petition has been rightly allowed and the impugned award is not liable to be set aside. However, the Tribunal did not award just and adequate compensation which may be enhanced.

11. It is now well settled that proof of negligence is necessary before the owner or the insurer of a motor vehicle can be held to be liable for payment of compensation in a motor vehicle accident claim case under Section 166 of the M.V. Act, 1988.

12. The onus of proving negligence on the part of the driver of the offending vehicle lies on the claimants. While in criminal cases negligence has to be proved beyond reasonable doubt, in Civil Cases/motor accidents claim cases the negligence has to be proved on preponderance of probabilities.

13. In the present case, to discharge the onus of proof lying on them, the claimants examined PW-1 Pushpa Devi, widow of the deceased, PW-4 S.I. Partap Singh, Investigating Officer of the

criminal case and PW-5 Dharambir Singh on whose statement FIR Ex.P-5 was registered. PW-1 Pushpa Devi stated that her husband died due to road accident on 11.11.1999 but admittedly PW-1 Pushpa Devi, widow of deceased-Naresh Kumar was not present at the time of accident and did not witness the same. PW-5 Dharambir has merely stated that at about 10:00 P.M. on 11.11.1999 he was going from his house on his scooter to Bazar for purchasing medicines. When he just reached at Rohtak Gate, he noticed that a vehicle Tata 407 came from the side of Bhiwani-Rohtak Gate with high speed. He also noticed that another vehicle i.e. Tata Sumo bearing registration No.DL-4CE/4608 was standing along with the road side. The window of the vehicle on driver side was lying at some distance, in broken condition. Driver was also lying dead and one more dead body was lying inside the vehicle. PW-5 Dharambir categorically stated that he did not witness the accident.

14. PW-4 S.I. Partap Singh, Investigating Officer of the case, stated that the accident in question took place with some unknown vehicle which could not be traced and he submitted untraced report in the Court. PW-4 S.I. Partap Singh also admitted that the complainant-Dharambir PW-5 did not attribute any negligence on the part of the driver of Tata Sumo bearing registration No.DL-4CE/4608 for causing the accident. The claimants did not examine any person alleged to have witnessed the accident in support of their claim. To controvert the case of the claimants, respondents No.3 and 4 examined RW-1 Sudhir Singh

s/o Sukhbir Singh, owner of the vehicle and brother of driver-Randhir Singh, who has testified that his brother Randhir Singh was driving the Tata Sumo in question and he died in the accident which was caused by an unknown vehicle who after causing the accident fled away from the spot and till date his whereabouts could not be known. RW-1 Sudhir Singh also deposed that Tata Sumo was not at fault for the accident. No criminal case was registered against Randhir Singh-driver.

15. It is evident from the above reference to the evidence on record that the claimants have failed to produce any direct evidence to prove that the accident had taken place due to rash and negligent driving of Tata Sumo by driver-Randhir Singh.

16. The question which arises in the present case is whether the doctrine of *res ipsa loquitur* is applicable to the facts of the present case so as to justify the finding of deceased-Naresh Kumar having died due to rash and negligent driving of Tata Sumo by its driver-Randhir Singh.

17. In **Pushpabai Parshottam Udeshi Vs. Ranjit Ginning and Pressing Co. Pvt. Ltd. AIR 1977 Supreme Court 1735** Hon'ble Supreme Court observed as under:-

> "The normal rule is that it is for the plaintiff to prove negligence but as in some cases considerable hardship is caused to the plaintiff as the true cause of the accident is not known to him but is solely within the knowledge of the defendant who caused it, the plaintiff can prove the accident but cannot prove how it happened to establish negligence on the part of the defendant. This hardship is sought to be avoided by applying the principle of res ipsa loquitur. The general purport of the words res ipsa loquitur is that the accident

> "speaks for itself" or tells its own story. There are cases in which the accident speaks for itself so that it is sufficient for the plaintiff to prove the accident and nothing more. It will then be for the defendant to establish that the accident happened due to some other cause than his own negligence. Salmond on the Law of Torts (15th Ed.) at p. 306 states : "The maxim res ipsa loquitur applies whenever it is so improbable that such an accident would have happened without the negligence of the defendant that a reasonable jury could find without further evidence that it was so caused". In Halsbury's Laws of England, 3rd Ed., Vol. 28, at page 77, the position is stated thus : "An exception to the general rule that the burden of proof of the alleged negligence is in the first instance on the plaintiff occurs wherever the facts already established are such that the proper and natural inference arising from them is that the injury complained of was caused by the defendant's negligence, or where the event charged as negligence 'tells its own story' of negligence on the part of the defendant, the story so told being clear and unambiguous". Where the maxim is applied the burden is on the defendant to show either that in fact he was not negligent or that the accident might more probably have happened in a manner which did not connote negligence on his part. For the application of the principle it must be shown that the car was under the management of the defendant and that the accident is such as in ordinary course of things does not happen if those who had the management used proper care."

18. In **Kerala State Electricity Board Vs. Kamalakshy Amma, 1987 ACJ 251** Hon'ble Supreme Court observed as under:-

> "The maxim res ipsa loquitur is a principle which aids the court in deciding as to the stage at which the onus shifts from one side to the other. Section 114 of the Evidence Act gives a wide discretion to the courts to draw presumptions of fact based on different situations and circumstances. This is in a way, a recognition of the principle embodied in the maxim res ipsa loquitur. The leading case on the subject is ***Scott v. London and St. Katherine Docks Co. (1865) 3 H & C 596***. Erle C.J. in the said case has stated that, "where the thing is shown to be under the management of the defendant or his servants and the accident is such as in the ordinary course of things does not happen if those who have the management use proper care, it affords reasonable evidence, in the absence of explanation by the

defendants, that the accident arose from want of care". Evershad M. R. in ***Moore v. R. Fox & Sons (1956) 1 OB 596*** affirmed and followed the principle laid down in Scott's case. Winfield in his famous treatise on Tort, after referring to the decisions which founded the above doctrine, has mentioned the two requirements to attract the above principle. They are, (i) that the "thing" causing the damage be under the control of the defendant or his servants and (ii) that the accident must be such as would not in the ordinary course of things have happened without negligence. This principle which was often found to be a helping guide in the evaluation of evidence in English decisions has been recognised in India also. The Supreme Court in ***Syed Akbar v. State of Karnataka, AIR 1979 SC 1848*** has discussed the applicability of the maxim res ipsa loquitur in civil as also criminal cases, in the light of the provisions of the Evidence Act."

19. In **National Insurance Co. Ltd. Vs. Gita Bindal 2013 (8) R.C.R. (Civil) 245** Hon'ble Delhi High Court summarised the legal position as to applicability of the principle of res ipsa Loquitur as under:-

i. Res ipsa loquitur means that the accident speaks for itself. In such cases, it is sufficient for the plaintiff to prove the accident and nothing more.
ii. Where the thing is shown to be under the management of the defendant or his servants, and the accident is such as in the ordinary course of things does not happen if those who have the management use proper care, it affords reasonable evidence in the absence of explanation by the defendants, that the accident arose from want of care.
iii. There are two requirements to attract res ipsa loquitur, (i) that the "thing" causing the damage be under the control of the defendant and (ii) that the accident must be such as would not in the ordinary course of things have happened without negligence.
iv. Res ipsa loquitur is an exception to the normal rule that mere happening of an accident is no evidence of negligence on the part of the driver. This maxim means the mere proof of accident raises the presumption of negligence unless rebutted by the wrongdoer.

v. In some cases considerable hardship is caused to the plaintiff as the true cause of the accident is not known to him, but is solely within the knowledge of the defendant who caused it, the plaintiff can prove the accident, but cannot prove how it happened to establish negligence. This hardship is to be avoided by applying the principle of res ipsa loquitur is that the accident speaks for itself or tells its own story. There are cases in which the accident speaks for itself so that it is sufficient for the plaintiff to prove the accident and nothing more.

vi. The effect of doctrine of 'res ipsa loquitur' is to shift the onus to the defendant in the sense that the doctrine continues to operate unless the defendant calls credible evidence which explains how the accident or mishap may have occurred without negligence, and it seems that the operation of the rule is not displaced merely by expert evidence showing, theoretically, possible ways in which the accident might have happened without the defendant's negligence. The doctrine of 'res ipsa loquitur', therefore, plays a very significant role in the law of tort and it is not the relic of the past, but the living force of the day in determining the tortuous liability.

vii. The principal function of the maxim is to prevent injustice which would result if a plaintiff were invariably compelled to prove the precise cause of the accident and the defendant responsible for it, even when the facts bearing in the matter are at the outset unknown to him and often within the knowledge of the defendant.

viii. The doctrine of res ipsa loquitur has been applied by the Courts in the following cases:-

Where victim was sleeping on a cot placed in front of his house by the side of the road when the offending vehicle dashed against the cot and injured the claimant.

Where a bus had dashed against a tree, causing death of a passenger.

Where a vehicle negotiating a sharp "U" turn dashed against a tree, moved away to a distance of 150 feet from the road and then overturned.

Where a vehicle went-off the road, hit against the tree and rolled down killing a passenger.

Where a truck dashed against the victim standing by roadside.

Where a truck came at breakneck speed without blowing horn and dashed against a 9 years old boy, who was walking on the extreme left side of the road, from behind resulting in instantaneous death."

20. In the present case, Tata Sumo bearing registration No.DL-4CE/4608 is proved to be under the management and control of its driver-Randhir Singh and the first condition for applicability of the maxim res ipsa loquitur is satisfied but the accident of Tata Sumo is not proved to be such as in the ordinary course of things would not have happened if its driver-Randhir Singh had used proper care and therefore, the second condition for applicability of the maxim of res ipsa loquitur is not satisfied. Consequently, the onus of proof lying on the claimants to prove negligence on the part of Randhir Singh driver of Tata Sumo did not shift to the respondents and absence of explanation by the respondents did not afford evidence that the accident occurred due to negligence on the part of Randhir Singh driver of Tata Sumo. The Tribunal was not, therefore, justified in raising the presumption of composite or contributory negligence on the part of driver of Tata Sumo and the finding of the Tribunal on issue No.1 is, therefore, perverse and liable to be reversed.

21. Since, the claimants have failed to prove that Naresh Kumar died due to injuries suffered in accident caused by rash and negligent driving of Tata Sumo bearing registration No.DL-4CE/4608 by its driver-Randhir Singh, the claimants are not entitled for payment of any compensation from the respondents under Section 166 of the M.V. Act on the ground of his death due to

injuries suffered in accident caused by rash and negligent driving of Tata Sumo No.DL-4CE/4608 by its driver Randhir Singh.

22. However, Tata Sumo bearing registration No.DL-4CE/4608 was insured with respondent No.3 under Private Car Insurance B Policy which is Comprehensive/Package Insurance Policy and insurance premium for passengers had been paid. For this purpose, Schedule of premium of the insurance policy Ex.-R2 is reproduced as under:-

PREMIUM COMPUTATION			
OWN DAMAGE (PART A)	Rupees	THIRD PARTY (PART B)	Rupees
Basic O.D. Premium	8,506.00	Basic TP (Incl. Trailer)	509.00
(+) Trailer Premium		(+) LL to Employees-Car	
(-) Disc. for Side Car		(+) LL to Employees-Oth	
(+) Loss of Accessory		(+) P.A. to Passenger	450.00
(+) No Excl Endt		(+) Non fare paying pass	
(+) Elect. Acc. Extra	170.00	(+) TPPD Rs. 6000	
(+) Air-conditioner		(+) Accident to Soldier	
(+) CNG Kit/F.G. Tank		(+) Geographic Load	
(+) Geographic Load		(+) Rallies/Trails Load	
(+) Rallies/Trails		(-) Auto. Assn. Mem.	
(+) Embassy Load (15%)		GROSS TP PREMIUM (ROUND)	959.00
(-) E'quake Excl. Disc.		GROSS OD & TP PREMIUM	3,996.00
(-) R.S.M.D. Excl. Disc.		(+) Commercial Use Load	
(-) Flood Excl. Disc.		(-) Use in own Premises	
(-) Vol. Excess Disc.		(-) Handicapped Disc.	
(-) Auto. Assn. Member		(-) Special Disc. (5%)	
(-) Named Driver Disc.		(+) Stamp Duty (Recov.)	
(-) N.C.B. (65%)	5,639.40	NET Premium Rs.	3,996.00
(-) Malue		(+) Service Tax (5%)	200.00
(+) Extra OD Loading			
GROSS OD PREMIUM	3,037.00	NET PAYABLE TAX (5%)	4,196.00

(ROUND)			

23. In **National Insurance Company Limited Vs. Balakrishnan and another : (2013) 1 SCC 731** Hon'ble Supreme Court referred to judgment of Hon’ble Delhi High Court in **Yashpal Luthra and another Vs. United India Insurance Co. Ltd. and another : 2009 (30) RCR (Civil) 641**, distinguished ‘Comprehensive/Package Policy’ from the 'Act Policy' and relying on the circulars issued by the Insurance Regulatory and Development Authority (IRDA) held that ‘Act Only Policy’ cannot cover risk of an occupant in a car, but in a comprehensive/package policy, the liability would be covered. Relevant para of the judgment of Hon’ble Supreme Court is reproduced as under:-

> “In view of the aforesaid factual position, there is no scintilla of doubt that a comprehensive/package policy would cover the liability of the insurer for payment of compensation for the occupant in a car. There is no cavil that an Act Policy stands on a different footing from a Comprehensive/Package Policy. As the circulars have made the position very clear and the IRDA, which is presently the statutory authority, has commanded the insurance companies stating that a Comprehensive/Package Policy covers the liability, there cannot be any dispute in that regard. We may hasten to clarify that the earlier pronouncements were rendered in respect of the Act Policy while admittedly cannot cover a third party risk of an occupant in a car. But, if the policy is a Comprehensive/Package Policy, the liability would be covered. These aspects were not noticed in the case of Bhagyalakshmi (supra) and, therefore, the matter was referred to a larger Bench. We are disposed to think that there is no necessity to refer the present matter to a larger Bench as the IRDA, which is presently the statutory authority, has clarified the position by issuing circulars which have been reproduced in the judgment by the Delhi High Court and we have also reproduced the same.”

24. In view of the law laid down by Hon'ble Supreme Court in **Balakrishnan's case (supra)**, the claimants will be entitled to award of compensation under Comprehensive/Package Insurance Policy/Private Car Insurance B Policy of Tata Sumo bearing registration No.DL-4CE/4608.

25. Admittedly, deceased-Naresh Kumar was employed in Health Department and his carry home salary was rightly assessed by the Tribunal as ₹6303/- which is also not challenged by any of the parties on any ground. However, the Tribunal did not make any addition towards future prospects. In view of the observations made by Hon'ble Supreme Court in Para 61 (iii) of its judgment in **National Insurance Company Limited Vs. Pranay Sethi and Others, 2017 (4) R.C.R. (Civil) 1009** addition of 50% is required to be made to the income of the deceased towards future prospects. On addition of 50% towards future prospects income of the deceased comes to (₹6303/- + ₹3151=) ₹9,454/-

26. Hon'ble Supreme Court of India in para No.14 of its judgment in **Sarla Verma's case (Supra)** observed as under:-

> "xx xx xx we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third ($1/3^{rd}$) where the number of dependent family members is 2 to 3, one-fourth ($1/4^{th}$) where the number of dependent family members is 4 to 6, and one-fifth ($1/5^{th}$) where the number of dependent family members exceed six.

In view of the number of claimants dependent on the deceased being three, the Tribunal rightly deducted $1/3^{rd}$ of the income towards his personal expenses. On deduction of $1/3^{rd}$ personal expenses annual dependency of the claimants on the deceased comes to ₹9,454 – 3,151= ₹6,303 X 12 = ₹75,636/-.

27. Hon'ble Supreme Court observed in para No.61(vii) of its judgment in **Pranay Sethi's case (Supra)** that the age of the deceased should be the basis for applying the multiplier. In **Sarla Verma's case (Supra)** Hon'ble Supreme Court of India observed in para No.21 of its judgment as under:-

> "We therefore hold that the multiplier to be used should be as mentioned in column (4) of the Table above (prepared by applying Susamma Thomas, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years."

The deceased is proved to be aged about 30 years. In view of the age of the deceased, multiplier of 17 was applicable and the Tribunal wrongly applied the multiplier of 18. On application of multiplier of 17 to annual dependency of ₹75,636/- compensation for loss of dependency comes to (₹75,636 X 17 =) ₹12,85,812/-.

28. The Tribunal awarded amount of ₹2,000/- towards funeral expenses, amount of ₹2,500/- under the head of loss of estate and amount of ₹5,000/- under the head of loss of consortium.

29. In **Pranay Sethi case (Supra)** in para No.61 (viii) of its judgment, Hon'ble Supreme Court observed that reasonable figures on conventional heads, namely, loss of estate, loss of consortium

and funeral expenses should be ₹15,000/-, ₹40,000/- and ₹15,000/- respectively and that the aforesaid amounts should be enhanced at the rate of 10% in every three years.

30. As a corollary to above direction of Hon'ble Supreme Court for enhancement of the figures on conventional heads at the rate of 10% in every three years for assessment of compensation in cases arising in future, the figures on conventional head will be liable to reduction at the rate of 10% for every block of three years for assessment of compensation in cases which have arisen in the past.

31. In **Magma General Insurance Company' case (Supra)** Hon'ble Supreme Court clarified that in legal parlance 'consortium' is compendious term which encompasses 'spousal consortium', 'parental consortium' and 'filial consortium' and awarded compensation of ₹40,000/- each for loss of filial consortium to father and sister of the deceased. However, the Bench observed in para No.8.7 of its judgment that the amount of compensation to be awarded for loss of consortium will be governed by the principles of awarding compensation under 'Loss of Consortium' as laid down in **Pranay Sethi's case (Supra)**.

32. In view of the principles of awarding compensation under conventional heads as laid down by Hon'ble Supreme Court in **Pranay Sethi's case (Supra)** referred to above, the claimants widow and children of the deceased will be entitled to award of compensation of ₹16,000/- only in equal shares towards loss of

spousal, parental and filial consortium and ₹6,000/- towards funeral expenses and ₹6,000/- towards loss of estate.

33. In view of the above discussion, compensation payable to the claimants on account of death of Naresh Kumar is tabulated as under:-

Sr. No.	Head	Compensation
1.	Monthly income of the deceased	₹6,303/- per month
2.	Income after addition of future prospects at the rate of 50%	₹6,303 + ₹3,151 = ₹9,454/-
3.	Deduction of 1/3rd on account of personal expenses	₹9,454 – ₹3,151 (9454/3) = ₹6,303/-
4.	Annual Dependency	₹6,303 x 12 = ₹75,636/-
5.	Loss of Dependency	₹75,636 x 17 = ₹12,85,812/-
6.	Funeral Expenses	₹6,000/-
7.	Compensation payable for loss of spousal, parental and filial consortium	₹16,000/-
8.	Loss of Estate	₹6,000/-
	Total Compensation	**₹13,13,812/-**

34. It follows from the above discussion that the claimants are entitled under Comprehensive/Package Insurance Policy/Private Car Insurance B Policy of Tata Sumo bearing registration No.DL-4CE/4608 to payment of compensation of ₹13,13,812/- with costs and interest at the rate of 9% per annum from the date of filing of the petition till realization. The amount of ₹9,16,700/- awarded to the claimants by the Tribunal shall be liable to be deducted from the amount calculated as above. Out of the enhanced compensation amount of ₹3,97,112/- amount of ₹1,97,112/- shall be payable to claimant No.1-widow and amount of

₹2,00,000/- shall be payable in equal shares to claimants No.2 and 3.

35. In view of the above discussion, the appeal is, accordingly, dismissed and cross-objections are allowed with costs in terms of the above said modifications of the award dated 28.09.2002.

(ARUN KUMAR TYAGI)
JUDGE

01.03.2019
Vinay/kothiyal

Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No