



2024:DHC:9720



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 13th December, 2024***+ **MAC.APP. 86/2022**

ROSHNI DEVIAppellant

Through: Mr. Anshuman Bal, Advocate.

versus

1. IFFCO TOKIO GEN INS CO LTDRespondent No.1

2. SANJEEV YADAV
S/o Sh. Surinder YadavRespondent No.23. JITENDER
S/o Sh. Kidara ...Respondent No. 3
Through: None.**CORAM:****HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****JUDGMENT (oral)**

1. The present Appeal under *Section 173* of the *Motor Vehicles Act, 1988* has been filed by the Appellant for enhancement of the compensation awarded *vide* Award dated 16.12.2021 in the sum of Rs.19,46,000/- along with interest @ 9 % per annum, on account of demise of Inderjit, aged 21 years, in a road accident on 02.02.2016.

2. The sole ground of challenge is that deceased was a young boy of 21 years. He was studying in BA first year. His income has been calculated as per Minimum Wages for a graduate in the sum of

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Rs.12,142/-p.m. However, considering that he was a graduate, it should have been calculated on the basis of prospective income.

3. The learned counsel has placed reliance in this regards on the judgments of this court in Bharti Axa General Insurance Company Limited vs. Upender Kumar Shastri & Ors., in MAC. APP. 376/2017 decided on 07.03.2018 and Ergo General Insurance Company Limited vs Rattan Kumar Dwivedi, in MAC. APP. 993/2013 decided on 09.08.2017.

4. **Submissions Heard.**

5. **Briefly stated**, on 02.02.2016 at about 04:00 PM, deceased Inderjit along with Krishan Kumar was going on a motorcycle from Rawta Mor to Dhansa Village. When they reached in front of the Midfield School, Jaffarpur Kalan, Delhi, a car bearing number DL-9-CH-1031 going in front of them, suddenly took a sharp right U-turn without giving any indicator, and hit the motorcycle. All persons received grievous injuries and were taken to RTRM Hospital, Jaffarpur Kalan and from there the deceased, Inderjit, was taken to Safdarjung Hospital who succumbed to his injuries on 03.02.2016.

6. An *FIR No.0022/2016* was registered under Section 279, 337, 304-A IPC was registered on 02.02.2016 at P.S. Jaffarpur Kalan.

7. Considering that it is an accident of 2016, and also that the deceased was in the first year his graduation, his income, instead of being calculated on the basis of Minimum Wages, is calculated on the basis of prospective income, *which is taken as 17,500/- per month.*

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8. It is noted that the loss of Consortium has been granted as Rs.40,000/-. Considering that there are two legal heirs of the deceased, Sh. Inderjit, the amount towards loss of Consortium is recalculated as $\text{Rs.40,000} \times 2 = \text{Rs.80,000/-}$ is granted.

9. In the case of National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680, the Apex Court observed that each family member is entitled to Loss of Consortium in the sum of Rs. 40,000/- each. Further, in every three years, 10% increase must be made in the compensation granted on account of Loss of Estate, Funeral Charges and Loss of Consortium.

10. The accident involved in the present case is of 2016, the revised compensation on account of *Loss of Estate, Funeral Charges and Loss of Consortium* is calculated as under: -

Loss of Consortium: -

$\text{Rs. 40,000/-} \times 2 = \text{Rs. 80,000/-} + \text{Rs. 8,000/-}$ (revision of 10% of 6 years) = **Rs. 88,000/-**.

Loss of Estate: -

$\text{Rs. 15,000/-} + \text{Rs. 3,000/-}$ (revision of 10% of 6 years) = **Rs. 18,000/-**.

Funeral Expenses: -

$\text{Rs. 15,000/-} + \text{Rs. 3,000/-}$ (revision of 10% of 6 years) = **Rs. 18,000/-**.

11. The compensation is recalculated as under:-

S.No.	Heads	Awarded by the Tribunal	Awarded by this Court
1.	Income of	Rs12,142/-	Rs.17,500/-



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	Deceased (A)		
2.	Add-Future Prospects (B)	40%	40%
3.	Less-Personal Expenses of Deceased (C)	1/2	1/2
4.	Monthly loss of Dependency [(A+B)-C=D]	Rs.8499.40/-	Rs.12,250/-
5.	Annual loss of Dependency (Dx12)	Rs.1,01,992.8/-	Rs.1,47,000/-
6.	Multiplier (E)	18	18
7.	Total loss of Dependency	Rs.18,35,870.40/-	Rs.26,46,000/-
8.	Medical Expenses	NA	NA
9.	Compensation for loss of Consortium (H)	Rs. 40,000/-	Rs.88,000/-
10.	Compensation for loss of Estate (I)	Rs. 15,000/-	Rs.18,000/-
11.	Compensation towards funeral expenses (J)	Rs. 15,000/-	Rs.18,000/-
12.	Total Compensation (F+G+H+I+J= K)	Rs.19,46,000/- (rounded off)	Rs.27,70,000/-

Relief: -

12. In view of the above, the Claimant is awarded enhanced total compensation of **Rs. 27,70,000/-** along with interest @9% per annum from the date of filing of the petition till realization, to be disbursed in



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terms of the Award dated 16.12.2021. The Insurance Company is directed to deposit the enhanced Awarded amount within 30 days with the learned Tribunal.

13. With aforesaid directions, the Appeal is accordingly disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

DECEMBER 13, 2024
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