



2024:DHC:8888



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Date of decision: 13th November, 2024*

+ **MAC.APP. 390/2023**

1. **Sonika**
2. **Deepak Kumar Tyagi**

.....Appellants

Through: Mr. Navdeep Dev Singh and
Mr.Lokendra Rana, Advocates.

versus

- (i) **SANJAY KUMAR CHUGH (Deceased Thru LRS.)**

Smt. Babita Chugh (wife)

Sh. Sanyam Chugh@ Jatin Chugh (son)

Ms. Riya Chugh (Daughter)

- (ii) **National Insurance Co. Ltd.**Respondents

Through: Ms. Rakhi Dubey & Thakur Nishant
Kumar, Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The present Appeal under Section 173 of the *Motor Vehicles Act, 1988* ('M.V. Act' *hereinafter*) has been filed on behalf of the Claimants against the Award dated 07.03.2023, for seeking enhancement of compensation granted in the sum of Rs.27,46,260/- along with Interest at the rate of 7% per annum on account of death of Sh. Deepanshu Tyagi in a road accident on 14.06.2018 at about 07:50 P.M. near Arawali School, Sector 75, Faridabad, Haryana.

2. The *grounds* to seek higher compensation is that that the deceased,



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who was a B. Tech, was employed by him at his proprietorship Firm namely *M/s R. K. Automobiles* in February, 2018 as Assistant Engineer and was getting Rs.25,000/- per month, but the learned Tribunal has *assessed the income of the deceased on the basis of minimum wages in the sum of Rs.16,858/- per month.*

3. *Learned counsel for Claimants* has vehemently contended that the employment and salary of the deceased was duly proved by PW-4 Rajeshwar Kapoor and the documents of education i.e. mark-sheets/Provision Grade Statements of the deceased were proved by PW-3 Sh. Rahul Kumar, Office Executive from Noida International University. However, in disregard to these documents and proof of income, the learned Tribunal has erroneously calculated the income of deceased on the basis of Minimum Wages.

4. *Learned counsel for the Insurance Company* submits that the assessment of the income of the deceased has been correctly made and it does not call for any interference.

5. **Submissions heard.**

6. PW-1 Deepak Kumar Tyagi, father of the deceased, had deposed that his son, Deepanshu Tyagi met with an accident on 14.06.2018 and died because of the accident. He was working as Assistant Engineer with *M/s R. K. Automobiles* and earning Rs. 25,000/- per month. He proved the educational documents, Certificate of 10th and 12th Ex. PW1/5 colly.

7. The *second material witness* examined by the Claimant was PW-3, Sh. Rahul Kumar, Office Executive from Noida International University who produced Mark-Sheets/Provision Grade Statements of all Semesters and their transcript of the deceased Ex. PW3/A collectively. He clarified in



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his cross-examination that the deceased, though enrolled, but did not complete his education as he had not cleared approximately 7-8 papers / exams. The educational record of the deceased, thus, shows that he had taken admission in B.Tech but did not complete it.

8. The next material witness was PW-4 Rajeshwar Kapoor, Proprietor of M/s R. K. Automobiles who deposed that the deceased was working in his Firm and was paid Rs. 25,000/- per month. Pertinently, this witness has not produced attendance register for the period during which the deceased was employed with him. He expressed his inability to produce these records on the ground that it is old record, which has been destroyed. He admitted that there was no Appointment letter issued to the deceased. He was also unable to produce the documents of payment of salary. He further deposed that the salary was not being credited into the account of the deceased.

9. The testimony of PW- 4 thus reflects that there is no appointment letter or any proof of any kind whatsoever to show that deceased was employed with him or that was getting salary of Rs.25,000/- per month.

10. *The learned Tribunal in the Impugned Award* has rightly held that there was no proof of employment of the deceased with PW-4 and that he was getting a salary of Rs.25,000/- per month. **The income of the deceased has been rightly assessed according to Minimum Wages.**

11. There is no infirmity in the Impugned Award. The Appeal is without merit and is hereby dismissed.

(NEENA BANSAL KRISHNA)
JUDGE

NOVEMBER 13, 2024

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