



2023:DHC:9527



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of decision: 11th December, 2024**+ **MAC.APP. 445/2023 & CM APPL. 49634/2023****1. DEVIKA ALIAS DEVIKA BHADOLA**

W/o Late Sh. Pramod Bhadola

2. PRIYANKA BHADOLA

D/o Late Sh. Pramod Bhadola

3. SHIVAM BHADOLA

S/o Late Sh. Pramod Bhadola

4. SURESH DEVI BHADOLA

W/o Sh. Jagpati Prashad Bhadola

5. JAGPATI PRASHAD BHADOLA

S/o Late Sh. Bachi Ram

All residents of:

C-110, Vishwas Park, Near Tar Factory,
Uttam Nagar (East), New Delhi, 110060

.....Appellants

Through: Mr. Anshuman Bal, Advocate.

versus

UNITED INDIA INSURANCE CO. LTD. (Insurer)At: 102, Aggarwal Plaza, Plot No. 11,
Central Market, Sector 10, Dwarka
Delhi

.....Respondent No. 1

SH. SUNNY KUMAR (Driver)

S/o Sh. Jagdish Raj



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R/o Shahpur Kari, P.S. Shahpur Kari
Dist. Pathankot, Punjab

.....Respondent No. 2

SH. INDERJIT SINGH (Owner)

S/o Sh. Gian Chand

R/o HL-1, Phase-1, Tehsil & Dist. SAS Nagar

Mohali, Punjab

.....Respondent No. 3

Through: Mr. Yuvraj Sharma, Advocate for R1.

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* has been filed by the Appellants/Claimants to seek enhancement of compensation granted in the sum of Rs.11,86,750/- along with interest @ 9% per annum on account of demise of Sh. Pramod Bhadola in a road accident on 05.07.2016, vide the Award dated 30.03.2022.
2. The grounds for *enhancement of compensation* are that:-
 - I. that there were five claimants and the *Loss of Consortium* needs to be appropriately increased; and
 - II. that the *Matriculate Certificate* of the deceased is Ex. PW-1/7, despite which Minimum Wages for an unskilled worker in the sum of Rs.5750/- per month has been taken, instead of Rs.7085/- per month.
3. *Learned counsel for the Insurance Company* submits that the compensation has been calculated in accordance with law and no interference in the Award is warranted.
4. **Submissions Heard and record perused.**



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5. **Briefly stated**, on 05.07.2016 at about 01:00 PM, the deceased/Pramod Bhadola was travelling on a motorcycle. When he reached New Shiv Mandir, Sector-22, Noida, a Truck bearing No. HR-55G-1952 came from behind and hit the motorcycle. Due to the said accident, the deceased suffered injuries and was taken to the District Hospital, Noida where he was declared “*Brought Dead*”.

Loss of Consortium: -

6. The deceased was 39 years old was survived by wife, two children and parents i.e. there were five legal heirs. The *Loss of Love and Affection* and *Loss of Consortium* has been granted in the sum of Rs.40,000/- and Rs.30,000/- respectively.

7. The *Loss of Consortium* for each family member is to be granted in the sum of Rs.40,000/- each, in terms of judgment in National Insurance Company Limited v. Pranay Sethi And Others, (2017) 16 SCC 680.

8. However, *Love and Affection* is part of *Loss of Consortium*.

9. Therefore, *Loss of Consortium and Love and Affection* are together revised and the compensation amount on account of Love and Affection is deleted **while compensation for Loss of Consortium is enhanced to Rs.2,00,000 (Rs. 40,000 x 5) = Rs.2,00,000/-**.

Income of the Deceased: -

10. The *second ground* seeking enhancement is that deceased was Matriculate as has been established from the testimony of PW-1, Smt. Devika Bhadola who had proved his Matriculation Certificate as Ex. PW-1/7 issued on 21.06.1993 which establishes that the deceased was Matriculate.



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His Minimum income should have been taken as Minimum Wages for Matriculate i.e. Rs.7,085/- per month instead of Rs.5750/- per month for unskilled worker. The matriculation certificate produced is taken on record.

11. In view of the same, *the loss of dependency* is recalculated as under: -
Rs.7,439.25/- (including 40% future prospects and 1/4th deduction) X 12 X 15 = Rs.13,39,065/-.

12. The revised compensation is as under:-

S.No.	Heads	Awarded by Tribunal	Awarded by Court
1.	Loss of Dependency	Rs.10,86,750/-	Rs.13,39,065/-
2.	Funeral Expenses	Rs.15,000/-	Rs.15,000/-
3.	Loss of Estate	Rs.15,000/-	Rs.15,000/-
4.	Loss of love & affection	Rs.40,000/-	Deleted
5.	Loss of Consortium	Rs.30,000/-	Rs.2,00,000/-
TOTAL COMPENSATION		Rs.11,86,750/-	Rs.15,70,000/- (rounded off)

Relief: -

13. In view of the above, the Claimant is awarded total compensation of **Rs.15,70,000/-** along with the interest @9% per annum from the date of filing of the Petition till realization; to be disbursed in terms of the Award dated 30.03.2022. The Insurance Company is directed to deposit the enhanced Awarded amount along with interest within 30 days with the learned Tribunal, which shall be disbursed in terms of the Award Dated 30.03.2022.



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14. The Appeal is allowed and disposed of accordingly along with the pending Application(s), if any.

(NEENA BANSAL KRISHNA)
JUDGE

DECEMBER 11, 2024
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