



2024: DHC: 3663



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

% **Judgment reserved on : 28 March 2024**
Judgment pronounced on : 06 May 2024

+ **MAC. APP. 344/2015**

IFFCO-TOKIO GENERAL INSURANCE COMPANY LTD.

..... Appellant

Through: Ms. Suman Bagga and Mr.
Pankaj Gupta, Advs.

versus

NUPUR SINGH & ORS.

..... Respondents

Through: Mr. Ankit Jain, Adv. for R-1 to
R-3.

Mr. Manish Kumar Choudhary
and Ms. Srishti Choudhary,
Advs. for R-4 and R-5.

Mr. Arihant Jain, Ms. Shantha
Devi and Mr. Raman, Advs. for
R-8.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G M E N T

1. This appeal is preferred by the appellant/insurance company in terms of Section 173 of the Motor Vehicles Act, 1988¹ assailing the impugned judgment-cum-award dated 02.03.2015 passed by the learned Judge, Motor Accident Claims Tribunal, Patiala House Courts, New Delhi² in suit No. 75/2014 titled as 'Smt. Nupur Singh & Ors. vs. Sh. Rama Ram & Ors.', whereby the learned Tribunal awarded a sum of Rs. 2,55,48,000/- with interest as compensation to

¹Act

²Tribunal



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the claimants and fastened the liability upon respondent No.8/National Insurance Co. Ltd. and the appellant to pay the amount.

FACTUAL BACKGROUND

2. Shorn of unnecessary details, on 13.09.2009, the deceased Vinod Kumar, who had gone to Udaipur for official work for his company, was travelling back to Jodhpur along with his friend Shr. Rajat Arora in a Innova car bearing No. DL-4CAE-9634 (hereinafter referred to as the 'offending vehicle' for brevity), which was being driven by respondent No.9/Mr. Rajender Singh. At about 9:15 PM, when they reached Sadar Kankani, suddenly a bus bearing No. RJ-19PA-5105 (hereinafter referred to as the 'offending bus' for brevity) being driven by respondent No.6/Rama Ram, was coming from the opposite side at a very high speed and in a rash and negligent manner, and as a result, hit the vehicle/Innova car of the deceased. Consequently, the deceased was seriously injured and the passerby called the ambulance, which took the deceased to MDM hospital, Jodhpur, where he was declared brought dead. The matter was reported to the local police station i.e. PS Luni and FIR No. 109/2009 was registered under Sections 279/337/304A IPC. A claim petition was filed under Section 166 and Section 140 of the Act by the wife, children and parents of the deceased on 25.04.2010 claiming a sum of Rs. 2.25 crores as compensation.



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3. Respondents No.1 and 2, who are the driver³ and registered owner⁴ of the offending bus respectively, filed their written statements taking preliminary objections that the accident took place due to sole negligence of the driver of the Innova car, who could not control his vehicle and collided with the bus and that respondent No.1 was holding a valid Driving Licence⁵ at the time of accident. *Per Contra*, respondent No.3/National insurance Co. Ltd., the insurer of the offending truck, stated that the offending bus was insured with them *vide* policy No. 370500/31/09/6300000938 effective from 30.07.2009 to 29.07.2010. It was further averred that the site plan prepared by the Investigating Officer showed that the driver of the offending car was driving rashly and negligently.

4. *Per Contra*, respondents No.4 and 5, who are the driver and registered owner of the offending car, along with respondent No.6/insurance company (appellant herein), filed their written statements alleging that the contents of FIR show that it was the driver of the offending bus, who was at fault as he was driving in a rash and negligent manner, It was stated by respondents No.5 and 6 that the respondent No.4/driver of the offending vehicle, was not at fault and he was an experienced driver with a valid driving licence.

³Section 2(9) “driver” includes, in relation to a motor vehicle which is drawn by another motor vehicle, the person who acts as a steersman of the drawn vehicle

⁴Section 2(30) “owner” means a person in whose name a motor vehicle stands registered, and where such person is a minor, the guardian of such minor, and in relation to a motor vehicle which is the subject of a hire-purchase, agreement, or an agreement of lease or an agreement of hypothecation, the person in possession of the vehicle under that agreement.

⁵Section 2(10) “driving licence” means the licence issued by a competent authority under Chapter II authorising the person specified therein to drive, otherwise than as a learner, a motor vehicle or a motor vehicle of any specified class or description.



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5. The learned Tribunal *vide* order dated 21.07.2011 allowed the application under Order I Rule 10 of the Civil Procedure Code, 1908⁶ by respondent No.3/insurance company for impleadment of legal representatives of the driver (since deceased), owner and insurer of the offending vehicle. It is pertinent to mention here that *vide* order dated 1.06.2012 and 18.10.2012, respondents No. 1 and 2 and respondents No. 4 and 5 were proceeded *ex-parte* respectively.

6. The learned Tribunal *vide* order dated 16.04.2013, framed the following issues:

“1. Whether the deceased sustained injuries in the accident which occurred on 13.09.2009 at about 9.15 P.M. at SaradKankani, Jodhpur, Rajasthan, within jurisdiction of PS Luni caused by rash and negligent driving of vehicle NO.RJ19PA5105 driven by respondent no.1, owned by respondent no.2 and insured with respondent no.3? OPP.

2. Whether the petitioners are entitled for compensation? If so, to what amount and from whom?

3. Relief?”

7. Further, *vide* order dated 29.11.2013, deciding upon an application filed by respondent No.3/insurance company under Order 14 Rule 5 CPC, another additional issue was framed by the learned Tribunal for consideration:

“Whether the accident was caused due to composite negligence of drivers of vehicles bearing no.RJ-19PA-5105 and Innova bearing no.DL-4CAE-9634 being driven by respondents no.1 and 4 respectively or the driver of Innova car

bearing no.DL-4CAE-9634 contributed to the accident, if so, its effect?”

8. During the course of the proceedings, PW4/Rajat Arora, who was an eye witness to the incident and was travelling with the deceased, stated that no site plan was prepared by the police though

⁶CPC



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the site plan correctly depicted the place of accident. Further, it was deposed by PW-4 that the driver of the offending bus was driving in a rash and negligent manner and the Innova car was being driven on the left side as per traffic rules. However, on a bare perusal of the site plan, it was observed that the offending car was towards the centre of the road from where it had moved to the right side and not towards the left, as deposed by PW4.

9. Respondents No. 4 and 5, who are the driver and owner of the offending car, contended that the driver had to move to the extreme right to avoid a head-on-collision with the bus as there were trenches on the left-hand side of the road. But on further perusal of the site plan, it was seen that neither the photographs nor the site plan indicates anything that prevented the offending car from moving towards the left rather than on the right side to avoid the accident.

10. It is pertinent to mention here that respondent No.6/insurer, who is the appellant herein, relied upon the description of the accident given by respondent No.5/owner of the offending car, who was not even the eyewitness to the incident. In fact, respondents No.4 and 5 never stepped into the witness box so as to depose how the accident actually took place. Further, on perusal of the surveyor report, on which respondent No.6 relies, it was observed that the surveyor never carried out any independent inquiry into the matter so as to ascertain the manner in which the accident took place. Lastly, the learned Tribunal was convinced of the fact that there was composite



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negligence on the part of both the drivers of the offending bus and the offending car.

11. As regards the income of the deceased, PW3/Yashpal Mendiratta, Sr. Manager, Human resources, Philips Electronics deposed that the deceased was getting Rs.2.4 lacs per month, but he denied the suggestion that as per Form 16 (Ex.PW3/D), which pertains to the period from 01.04.2008 to 31.03.2209 and is issued by the company, the gross salary was Rs. 19,43,281/-. The learned Tribunal, after deducting the income tax, assessed the actual income of the deceased at Rs. 15,00,000/- per annum. The germane observations with regards the assessment of income is reproduced below:

“42. PW3 had deposed that the deceased was getting Rs.2.4 lacs per month and during cross-examination he denied the suggestion that as the Form 16 showed the gross salary to be Rs.19,43,281/-, what he had stated that day that the deceased was drawing a salary of Rs.2.4 Lakhs p.m was incorrect and volunteered that the components for computation of gross salary as per the Form 16 would be different than those stated in Ex.PW3/B which showed the monthly payment to the deceased. However the difference could not be to the extent as stated by him. The Form 16 Ex.PW3/D pertains to the period 1.4.2008 to 31.3.2009 and as per the same the salary of the deceased was Rs.19,43,281/-. The accident had taken place in September, 2009 and it would be argued on behalf of the petitioners that the income of the deceased should be taken as per the pay certificate Ex.PW3/B. However, it is seen that there are discrepancies between the pay slip which has not been got duly proved and the certificate produced by PW3 and that no other documents have been produced to corroborate both. Mark A shows APP/HMA of Rs. 58,836/- while Ex.PW3/B shows Addl. Personal Pay as Rs.86,106/- per month and there is no such figure given in the salary slip Mark A. Even if the projected computation for the whole year given in Mark A for purposes of tax is seen, it would not tally with the income of the deceased as stated in Ex.PW3/B and there is nothing to explain the marked differences between Mark A which is the salary slip for August, 2009 and Ex.PW3/B. The computation for the whole year in Mark



A also does not show any amount of Rs. 4,94,340/- and in fact as per the same, the income for the whole year would be Rs. 18,54,504.40. Thus, the income is taken as per Form 16 i.e. Rs.19,43,281/- from which medical reimbursement of Rs.12,246/- is liable to be deducted. It was contended on behalf of the respondents No.3 and 6 that income tax was liable to be deducted from the income. The same is also as per the well settled law that the actual income to be taken is the income after deduction of the income tax. PW3 could not tell the amount of tax which was deducted. He stated that their company had issued Form 16 which was Mark A and was EX.PW3/D. He could not tell about loss of house property mentioned in Form 16 for an amount of minus Rs.36,255/-. Form 16 shows the tax including surcharges to be Rs.4,60,902/- which would be liable to be deducted from the total income shown which would leave the income to be Rs.14,82,379/-. After deducting the amount towards medical reimbursement and making some allowance for increase in the salary the income of the deceased for computation of loss of dependency is taken as Rs.15,00,000/- p.a.”

12. As regards the liability, the learned Tribunal held that respondents No.3 and 6 i.e. the insurer for the offending bus and the offending vehicle respectively, are jointly and severally liable and would be liable to pay the compensation on behalf of respondents No. 1 and 2 as also respondents No. 4 and 5. Thus, the learned Tribunal after taking into consideration all the pecuniary heads, granted a sum of Rs.2,55,48,000/- as compensation to the claimants. The total compensation was determined as under:

Loss of dependency	:Rs.2,53,13,000/-
Loss of consortium	:Rs.1,00,000/-
Love and affection	: Rs.1,00,000/-
Loss of Estate	: Rs.10,000/-
Funeral Expenses	:Rs.25,000/-

Total : Rs.2,55,48,000/-



GROUND FOR APPEAL

13. The impugned judgment-cum-award has been assailed primarily on the grounds that the learned Tribunal has failed to appreciate that the appellant examined PW4/Rajat Arora, who clearly stated that it was the sole negligence on the part of driver of the offending bus and the Tribunal wrongly held the driver of the offending car equally responsible. Another objection was raised by the appellant that the site plan wrongly shows a road divider and there is nothing on record to show that there was a truck ahead of the Innova car.

ANALYSIS & DECISION:

14. Having heard the learned counsels for the rival parties and on perusal of the relevant records of the case including the digitized Trial Court record, at the outset, it would be apposite to reproduce the relevant observations made by the learned Tribunal, which read as under:

“29. PW4 thus stated that no site plan was prepared by the police in his presence though he stated that the site plan correctly depicted the place of the accident. He admitted that there was no negligence on the part of the driver of Innova car and that the negligence was entirely of the driver of the bus. However it is significant that PW4 was travelling in the Innova at the time of the accident and the Innova belonged to a personal friend of the deceased and as such there would be reason for him to take a stand in favour of the driver and owner of the Innova car. It may be mentioned that even the petitioners had initially not impleaded the driver, owner and insurer of the Innova car as respondents to the claim petition and it was only on an application moved by the respondent No.3 in that regard that they were impleaded as respondents. Moreover it has been vehemently contended on behalf of the respondents No.4, 5 and 6 that- they were unnecessarily impleaded as respondents in the present proceedings as even as per the case of the petitioners there was no fault attributable to the driver of the Innova car. However the case is to be decided not merely on what was pleaded





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or not pleaded by the petitioners but on the basis of the material on record. In the instant case the FIR was registered on the statement of PW4 but a perusal of the same shows that PW4 had not specifically stated about the manner of the accident in the same nor about the negligence of anyone and had merely stated that there was a collision between the car and the bus coming from the front. PW4 had admitted that there was no negligence on the part of the Innova driver. He stated that he could say that the bus was being driven rashly and negligently because the same was coming at a very high speed from the opposite direction and hit from the side. He stated that the Innova was being driven on the left side of the road. However a perusal of the site plan which has been placed on record shows that the Innova was towards the centre of the road from where it had moved to the right side of the road and not towards the left side of the road as was sought to be contended. In fact statements of Jeta Ram and Sukhram who are the owners of the hotel in front of which the accident had taken place, have been placed on record by the petitioners along with the criminal record as per which the Innova car had come at high speed and the driver of the Innova tried to overtake the truck moving ahead of the Innova and from the opposite side a bus was coming so the driver of the Innova immediately moved the Innova towards the hotel i.e. towards its right when the bus came at high speed and took the Innova in its fold. Thus if the Innova was trying to overtake the truck ahead of it, it would indicate that it was towards the middle of the road rather being towards the left of the road. It is also pertinent that as per the argument put forth, the high speed of the bus was evident from the fact that it braked 28 steps from the spot (as shown by the tyre marks) where it hit the car and thereafter dragged the car. However that also shows that there would have been some reason for which the driver of the bus had to brake it all of a sudden and clearly the reason was the Innova coming from the opposite side. It was sought to be contended on behalf of the respondents No.4.to 6 that the Innova had to move towards the right as there were bushes on the left side. The respondent No.3 had placed on record certain photographs which show some bushes. The respondents No.4 and 5 had argued that the driver of the Innova car had to move to his extreme right to avoid the head on collision with the bus as there were trenches on the left side of the road but neither the photographs nor the site plan Indicate anything which prevented the Innova from moving towards the left rather than the right side In order to avoid the accident and that also indicates that it was towards the middle of the road while trying to overtake a truck and on seeing a bus coming from the opposite



direction the driver of the Innova had no option but to move the Innova towards the right side as the truck would have been towards its left side. Even if the contention of the respondents No.4 and 5 was to be accepted that there were trenches on the left side, the same would have been on the kucha portion next to the road and there is nothing which prevented the driver of the Innova from taking it towards the left side of the road except that there was a vehicle on its left and there is nothing in the site plan to indicate that the bus had come towards what would be the left side of the road for the Innova car and had rather moved towards the right side of the Innova car.

30.PW4 admitted that the bus had hit the Innova from the left side volunteered the bus instead of moving to their right had come towards the Innova due to which the driver of the Innova turned the Innova a little towards the right. As regards what was volunteered by PW4 it is pertinent that if the bus had come to its right it would have hit against the truck if the statement of Jeta Ram and Sukhram is seen and that could be the reason that it moved towards the left and even otherwise it would have been expected to move towards the left side of the road in order to avoid the accident rather than coming on the wrong side of the road. PW4 stated that thereby the bus hit the Innova which had moved towards the kaccha area on its right side. However once both the bus and the Innova moved towards the right side of the Innova car the bus would have hit the Innova from the left side. PW4 also stated that it was a very narrow road on which at the most one bus could pass at a time and when the bus came from the opposite direction, apprehending that there would be a head on collision the driver of the Innova had no option but to take the car on the right side kucha road. However looking to the site plan the road does not appear to be so narrow that only one bus could pass at a time and in fact in the site plan it was stated that the road was 24 feet wide. There is no merit in what was said by PW4 that the driver of the Innova car had no option but to take the car on the right side kucha road, which would be so only if there was a vehicle towards its left, otherwise the Innova would have moved towards its left. It is pertinent that PW4 stated that he did not remember what was there on the left side of the road. A suggestion was put to him that the Innova was to drive on the left side as per traffic rules but the driver had taken the same on the right side due to which the collision had taken place with the offending bus which he denied but it is evident on a perusal of the site plan and the material on record that the Innova was not on the left side and it was taken towards the right side. He also denied the suggestion that the accident did not take place due to the



negligence of the bus driver. While it is clear that the driver of the Innova was responsible for the accident, it is equally true that the driver of the bus was also negligent. The driver of the bus had braked it 28 steps before the spot where it hit the Innova but if the bus was going at normal speed it would have been possible for the driver to control it in time or at least the impact of the accident would have been much less whereas it is clear that the bus after hitting the Innova dragged it for 25 steps which shows that it was moving at a high speed. Clearly the driver of the bus was not able to control the bus in time which resulted in the bus hitting the Innova car. The respondent No.1 and respondent No.2 who are the driver and owner of the bus have also not appeared to lead their evidence regarding the manner of the accident.”

15. First things first, the challenge by the appellant/insurance company, which is insurer of the ill-fated Innova car, to the findings rendered by the learned Tribunal on composite negligence is palpably not sustainable. In the light of the broad facts and circumstances of the case detailed hereinabove, it would be expedient to reproduce the observations made by the learned Tribunal, which read as under: -

“15. On behalf of the respondent No.3 Shri Rajesh Ranjan, Administrative Officer appeared in the witness box as R3W1 and led his evidence by way of affidavit which is Ex.R3W1/A. The insurance of the offending bus bearing registration number RJ-19PA-5105 at the time of the alleged accident with the company i.e. the respondent No.3 vide policy No.370500/31/09/6300000938 effective from 30.7.2009 was admitted. He stated that the site plan prepared by the police clearly showed that the driver of the Innova car bearing registration number DL-4CAE-9634 was driving his car rashly and negligently at a very high speed and also on the wrong side. He stated that the site plan of the incident clearly revealed that the bus bearing registration No.RJ-19PA-5105 was moving on the left side of the road as per the traffic rules but the Innova Car totally came to the wrong side due to which the alleged accident occurred. He stated that the driver of the bus had tried his level best to avert the collision, but the car was completely moving in the right side of the road, which ended in an accident. Therefore, at the time of the alleged accident, the driver of the Innova car was solely and highly negligent





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indriving his vehicle and due to the said reason alone the accident occurred and in view of the same, the driver, owner and insurer of the offending Innova Car were liable to pay the compensation to the petitioners. He stated that Shri Jeta Ram s/o Shri Mangla Ram and Shri Sukh Ram s/o Shri Mangla Ram who were the owners of the hotel in front of which the accident occurred had clearly admitted in their statement given to the police that at the time of the alleged accident, the driver of the Innova car was trying to overtake the truck, which was going ahead of the Innova car, ignoring the other traffic and due to the said wrong overtaking, the accident occurred. He stated that in view of the same, the liability, if any was of the owner, driver and insurer of the Innova car bearing registration No.DL-4CAE-9634. He stated that the property search and seizure Form clearly revealed that at the time of search and seizure of the property, the back side right hand tyre was punctured of the Innova car and it could be assumed that due to the high speed and overtaking of the truck, which was ahead, the driver of the Innova car had lost the control of his vehicle and hit the offending bus. He stated that as such the petitioners could not claim the compensation against the driver, owner and insurer of the bus bearing registration No.RJ-19PA-5105 while the driver, owner and insurer of the Innova car were responsible for the accident. He stated that the site plan of the spot of the accident prepared by the police clearly showed that the accident occurred on the kaccha road/ portion which was absolutely and clearly outside the road. He stated that it was clear that the driver of the bus took the bus to the extreme left side to save the accident but the driver of the Innova car kept on moving on high speed and hit the bus from the side. He stated that the IO of the case, in the Crime Details Form clearly mentioned giving his observation that at the time of the alleged accident, both the drivers of the vehicles were negligent and charge sheeted. Copy of insurance certificate consisting of terms and conditions is Ex.R3W1/1 and the certified copy of Crime-Details Form available in the criminal proceedings is EX.R3W1/2 (colly). He was not cross-examined on behalf of the petitioners.”

16. On a careful perusal of the aforesaid observations *vis-a-vis* statement of the witness recorded during the trial, the site plan of the place of occurrence and the photographs of the place of occurrence, what clearly emerges is that the motor accident occurred at a two-way road where there was no physical divider, but wide rectangular traffic



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markings in the middle and the width of the road in the photographs appeared to be about 20 feet. The photographs suggest that from the side, the Innova Car was approaching and on the left side, there was *kaccha* road i.e. bushes and mud, while on the right side of the road, there was Cemented portion in a circular form where there were located certain dhabas/restaurants, shops etc. The testimony of PW-4/Mr. Rajat Arora would go on to suggest that the Innova car was taken to the right side on seeing the offending bus approaching from the other side, which is very bizarre. So, to say, since in order to avoid a head-on-collision, if the driver is a right hander, the steering wheel by automatic impulse is manoeuvred to the left but this was a case where the Innova car was taken to the right side and the bus struck the Innova car on the left side whereas the deceased was sitting on the right side, just behind the driver and the ill-fated Innova car was dragged for about 25 steps or so.

17. In view of the fact that the driver of the Innova car was not examined, the appellant/insurance company could have very well summoned and examined the witness as also for the fact that the so called public witnesses namely Jeet Ram and Sukh Ram were not examined by the appellant/insurance company and by way of the preponderance of probabilities, it can be deciphered that the bus was coming at a fast pace from the opposite side and the bus was taken to the left and in the same manner, the Innova car also went to the left side of the road and as a result, the collision occurred not on the main road, but on the cemented road, which would be on the left side of the



road from where the bus was approaching. The relevant observations by the learned Tribunal in this regard are as under: -

“33.It is thus clear that both the bus and the Innova car had contributed to the happening of the accident. The learned counsel for the petitioners had relied upon the judgment of the Hon'ble High Court of Gujarat in Abhrambhai Abdul Bhai Vora v. Jyotshnaben Rajobhai Amin 2013 (3) AICJ 223 (Gujarat) DB to contend that the evidence of the eye witness is final. However in the present case two vehicles were involved and as observed above the eye witness had reason to depose in favour of the driver and owner of the Innova car. Further the criminal record has been placed on record which shows that the respondent No.1 and respondent No.4 both have been charge sheeted for the offence under Sections 279/337/304A IPG. In Basant Kaur and others v. Chattar Pal Singh and others 2003 AGJ 369 MP (DB) it was observed that registration of criminal case against the driver of the offending vehicle was enough to record a finding that the driver of the offending vehicle was responsible for causing the accident. The respondents No.1 and 4 have also not led any evidence to prove any other version of the accident. There is nothing to disprove the involvement of both the Innova car bearing N0.DL4CAE9634 and the bus bearing No.RJ 19PA 5105. In view of the testimony of the witnesses and the documents on record which have remained unrebutted, the negligence of the respondents No.1 and 4 has been prima facie proved. In the facts and circumstances of the case the negligence of the respondent No.1 is apportioned as 50% as also of the respondent No.4.”

18. Thus, without further ado, the findings given by the learned Tribunal that there was composite negligence on the part of the drivers of both the vehicles involved in the accident is clearly unassailable and requires no interference.

19. As regards the quantum of compensation, a half-hearted attempt was made to assail the compensation towards loss of financial dependency. However, having regard to the evidence brought on the record, the same does not appear to suffer from any illegality, perversity or incorrect approach. The deceased was apparently



survived by his wife, two children, who were minors at the time of accident besides the parents, who are entitled for compensation as granted by the learned Tribunal except for the fact that compensation towards loss of consortium of Rs. 1 lac besides love and affection of Rs. 1 lac awarded separately, is not in consonance with the decision in the case of **National Insurance Company Limited v. Pranay Sethi**⁷. The compensation awarded towards loss of love and affection has to be withdrawn and instead, each legal heir would be entitled to Rs. 40,000/- towards loss of consortium. Further, Rs. 15,000/- would be paid towards loss of estate and likewise, Rs. 15,000/- towards funeral charges. Accordingly, the compensation is reassessed as under:

Sr. No.	Heads of compensation	Amount
1.	Loss of dependency	Rs. 2,53,13,000/-
2.	Towards loss of consortium	Rs. 2,00,000/-
3.	Towards loss of estate	Rs. 15,000/-
4.	Towards loss of funeral expenses	Rs. 15,000/-
	Total	Rs. 2,55,43,000/-

20. In view of the foregoing discussion, the present appeal filed by the appellant/insurance company, being the insurer of the ill-fated Innova car, is devoid of any merits and same is hereby dismissed. However, the quantum of compensation is only interfered with to the extent discussed hereinabove and the claimants shall be entitled to Rs.

⁷2017 (16) SCC 680



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2,55,43,000/- (Rupees Two Crores Fifty Five Lacs Forty Three Thousand Only) with interest @ 7.5 % from the date of filing of the claim petition till realization.

21. Before parting with this appeal, it is pertinent to mention here that this Court *vide* order dated 16.11.2023, recorded the fact that while respondent No.8/the National Insurance Company, being the insurer of the offending bus, has deposited 50% of the amount of compensation with interest and same has already been released to the claimants, the remaining 50% of the amount of compensation had also been directed to be deposited with the UCO Bank, Delhi High Court Branch, New Delhi with accrued interest *vide* order dated 15.04.2015, stipulating that the same shall not be released to the claimants. However, this Court *vide* order dated 16.11.2023 directed that 50% i.e. 25% of the total amount of compensation deposited by the appellant/insurance company shall also be released to respondents No. 1 to 5 as per the directions passed by the learned Tribunal which is to the effect that 50% of the amount shall go to the wife while minor children to get 15% each besides the mother of the deceased and 5% of the amount of compensation to respondent No.5 i.e. the father of the deceased. Since respondents No. 4 and 5 are 77 and 81 years of age respectively, the entire amount of compensation be released to them without insisting for their physical appearance before the Branch Manager, UCO Bank, Delhi High Court Branch, New Delhi subject to necessary identification and if needed, they be called upon through video conferencing. The excess amount of Rs. 5,000/- in view of the



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recalculation of the amount of compensation, besides the amount of statutory deposit of Rs. 25,000/- shall remain forfeited to the State.

22. The present appeal stands disposed of accordingly.

DHARMESH SHARMA, J.

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