



2025:DHC:2114



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

% *Date of decision: 21st March, 2025*

+ **CS(COMM) 762/2023 & I.A. 45770/2024**

**MINDA SPECTRUM ADVISORY LIMITED &
ORS.**

.....Plaintiffs

Through: Ms. Aadya Chawla, Ms. Nandini
Choudhary, Ms. Rinkoo Kakkar and
Ms. Simrat Kaur Sareen, Advocates.

versus

JAGDISH KUMAR & ANR.

.....Defendants

Through: Mr. Arnav Goyal and Mr. Nihal
Singh Shekhawat, Advocates for D-1
and D-2.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J. (Oral)

**CS(COMM) 762/2023 & I.A. 45770/2024 (Under Order VIII Rule 10
read with Order XIII-A, CPC seeking a summary judgement against the
defendants)**

1. The present suit has been filed seeking relief of permanent injunction restraining the defendants from infringing the plaintiffs' well-known trademark and passing off their goods and services as that of the plaintiffs, and other ancillary reliefs.

BRIEF FACTS

2. The plaintiffs no.1 to 5 are engaged in the business of automobile



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components and spare parts. They are holders of the following registrations under the Trade Marks Act, 1999:

Sr. No.	Trade mark	Proprietor	Application date	Application No.	Class	Status	User date
1.	Minda (word)	Minda Spectrum Advisory Limited Plaintiff No. 1 herein	05/02/2020	4431208	12	Registered	1/06/1962
2.	Minda (device) 	Minda Spectrum Advisory Limited Plaintiff No. 1 herein	12/04/1996	711203	11	Registered	Proposed to be used
3.	Minda (device) 	Minda Spectrum Advisory Limited Plaintiff No. 1 herein	23/04/1967	241844	9	Registered	Proposed to be used
4.	Uno Minda Logo (Device) 	Minda Mindpro Ltd. Plaintiff No. 2 herein	19/03/2012	2301985	99 (7, 9, 11, 12, 35)	Registered	1/12/2011
5.	Uno Minda Logo (Device) 	Minda Mindpro Ltd. Plaintiff No. 2 herein	19/03/2012	2301986	99 (7, 9, 11, 12, 35)	Registered	1/12/2011
6.	Uno Minda Logo (Device) 	Minda Mindpro Ltd. Plaintiff No. 2 herein	03/09/2022	5594664	99 (7, 9, 11, 12, 35 & 42)	Registered	25/08/2022
7.	Spark Minda (Device) 	Minda Capital Pvt. Ltd. Plaintiff No. 3 herein	17/11/2011	2235342	17	Registered	1/10/2011
8.	Spark Minda (Device)	Minda Capital Pvt. Ltd.	17/11/2011	2235337	7	Registered	1/10/2011

Signature Not Verified

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By: DHARMENDER SINGH
Signing Date: 28.03.2025
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		Plaintiff No. 3 herein					
9.	Spark Minda (Device)	Minda Capital Pvt. Ltd. Plaintiff No. 3 herein	17/11/2011	2235345	42	Registered	1/10/2011
10.	Spark Minda (Device)	Minda Capital Pvt. Ltd. Plaintiff No. 3 herein	17/11/2011	2235344	41	Registered	1/10/2011
11.	Spark Minda (Device)	Minda Capital Pvt. Ltd. Plaintiff No. 3 herein	17/11/2011	2235343	39	Registered	1/10/2011
12.	Spark Minda (Device)	Minda Capital Pvt. Ltd. Plaintiff No. 3 herein	17/11/2011	2235338	9	Registered	1/10/2011
13.	Spark Minda (Device)	Minda Capital Pvt. Ltd. Plaintiff No. 3 herein	17/11/2011	2235339	11	Registered	1/10/2011
14.	Spark Minda (Device)	Minda Capital Pvt. Ltd. Plaintiff No. 3 herein	17/11/2011	2235341	16	Registered	01/10/2011
15.	Spark Minda Garrison Series	Minda Capital Pvt. Ltd. Plaintiff No. 3 herein	25/05/2022	5461614	09	Registered	Proposed to be used
16.	Spark Minda Armored Series	Minda Capital Pvt. Ltd. Plaintiff No. 3 herein	25/05/2022	5461615	09	Registered	Proposed to be used

3. All the aforesaid registrations of the plaintiffs remain valid and subsisting.



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4. The plaintiffs are part of the well-known and reputed “Minda Group of Companies” that have a widespread and enviable presence in the automobile and spare parts sector.

5. The plaintiff group was founded in the year 1958 by Late Shri Shadi Lal Minda under the flagship name MINDA as a proprietorship. With years passing by, the business was organised under various companies being incorporated and with the marks SPARK MINDA and UNO MINDA being adopted in the year 2011 by the two brothers of the family, respectively. Thus, the continuous, extensive and uninterrupted use of the mark MINDA as the Group’s trade name dates back as far as the year 1958.

6. The present suit relates to the defendants’ illegal, unauthorized and *mala fide* adoption of identical and deceptively similar marks/labels ‘SUPER MINDA’, ‘SUPERMINDA’, ‘SUPERM INDA’, ‘**SUPERMINDA**’, ‘**SUPERMINDA**’, which amount to a brazen and intentional infringement of the plaintiffs’ registered MINDA trademarks/labels.

7. It is submitted that in June, 2021, the plaintiffs came across a trademark application bearing no.4916099, filed by the defendant no.1/Mr. Jagdish Kumar on 22nd march, 2021 for registration of the infringing device mark ‘**SUPERMINDA**’ in Class 4. The plaintiffs immediately filed a notice of opposition against the said application, which opposition proceedings are presently pending before the Trade Marks Registry.

8. In the counter-statement filed by the defendant no.1 to the aforesaid notice of opposition, the defendant no.1 disclosed that the defendant no.1



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had also filed another trademark application on September, 14, 2020 bearing no.4655336 for registration of the word mark 'SUPERM INDA' in Class 4 on '*proposed to be used basis*'. It was also stated that the aforesaid mark has been registered on 21st March, 2021. The plaintiffs have also opposed the said registration and the opposition is currently pending before the Trade Mark Registry.

9. Thereafter, the plaintiffs conducted an investigation into the activities of the defendants through which the plaintiffs came across the usage of the impugned marks/labels 'SUPER MINDA', 'SUPERMINDA', 'SUPERM INDA', 'SUPERMINDA', 'SUPERMINDA', on the defendants website 'www.jaibharatlubricants.com' in relation to identical products as that of the plaintiffs – i.e. engine oils and lubricants.

10. A perusal of the aforesaid website of the defendants revealed that the defendant no.2/Mr. Bharat is the owner of the entity 'Jai Bharat Lubricants'. However, a GST search carried out for the entity 'Jai Bharat Lubricants' revealed that it was a sole proprietorship of the defendant no.1/Mr. Jagdish Kumar.

11. Additionally, a WHOIS search of the website 'www.jaibharatlubricants.com' revealed that the domain name was registered in the name of 'Jai Bharat Steel Casting', The said entity 'Jai Bharat Steel Casting' was previously impleaded as a defendant in a suit for infringement and passing off filed by the plaintiffs being *Minda Corporation Limited & Ors. v. Star Minda Oil Lubricants Ind. Ltd., & Ors.* CS (COMM) 449/2020, seeking an injunction against the defendants



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therein from using the infringing marks/labels STAR MINDA.

12. In the said suit, the defendants therein, including the entity 'Jai Bharat Steel Casting' arrived at a settlement with the plaintiffs and acknowledged the plaintiffs' absolute rights in the 'MINDA' trademarks and undertook to never use the plaintiffs' 'MINDA' trademarks and/or any other deceptively similar mark in the future. The aforesaid suit was decreed in terms of the settlement *vide* order and decree dated 8th April, 2022.

13. It is also stated that one of the defendants in the above-mentioned suit was one Mr. Bharat Bhushan Bhorla, who was the authorised signatory of 'Jai Bharat Steel Casting' and had personally signed the Settlement Agreement arrived at between the parties. A General Power of Attorney was filed in the said suit, in which Mr. Bharat Bhushan Bhorla was described as the son of Mr. Jagdish Kumar. (pg. 662 of the documents filed by the plaintiffs)

14. Based on the obvious connection between the entity 'Jai Bharat Steel Casting' and the entity 'Jai Bharat Lubricants' run by the defendants herein, the plaintiffs suspected that the defendant no.2/Mr. Bharat herein is the same Mr. Bharat Bhushan Bhorla, who had personally undertaken never to use the trademark 'MINDA' and/or any other deceptively similar mark. The aforesaid position was confirmed through the report of the Local Commissioner dated 31st October, 2021 wherein it has been recorded that the defendant no.2 (Mr. Bharat Bhushan Bhorla) is the son of the defendant no.1 (Mr. Jagdish Kumar).

15. It is stated that the defendant no.2, despite furnishing the aforementioned undertaking, collaborated with the defendant no.1 with an



intent to continue violating the plaintiff's rights in the MINDA trademarks/labels.

16. It is the case of the plaintiffs that the adoption and use of the impugned trademarks/labels 'SUPER MINDA', 'SUPERMINDA', 'SUPERM INDA', 'SUPERMINDA', 'SUPERMINDA', 'SUPERMINDA' by the defendants amount to infringement and dilution of the plaintiff's exclusive statutory and proprietary rights in the plaintiff's 'MINDA' trademarks.

PROCEEDINGS IN THE SUIT

17. On 20th October, 2023, this court granted an *ex-parte ad interim* injunction in favour of the plaintiffs and against the defendants, restraining the defendants from misusing the plaintiff's 'MINDA' trademarks.

18. The Joint Registrar, in his order dated 21st December, 2023 recorded that both the defendants had been served on 16th November, 2023.

19. *Vide* order dated 6th September, 2024 the defendants were proceeded against *ex-parte* by this Court. It was further held that since the common written statement filed by the defendants has been lying under objections since 13th March, 2024, there is no written statement on record and the right to file written statements of both the defendants was closed.

20. Notice in the present application was issued on 21st November, 2024 and thirty days' time was given to the defendants to file a reply. However, no reply was filed by the defendants.

21. Mr. Arnav Goel appeared on 27th November, 2024 and stated that he shall he shall be taking steps for moving an application seeking setting aside of the *ex parte* order.



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22. Thereafter on 17th January, 2025 once again a similar statement was made by the counsel for the defendant and last opportunity of 2 weeks was given to the defendants. However, no such application was filed nor was any reply to the present application seeking summary judgment filed.

23. on 19th March, 2025 an adjournment was sought on behalf of the counsel for the defendants.

ANALYSIS

24. I have heard the submissions of the counsel for the parties and also perused the material on record.

25. The plaint has been duly verified and is also supported by the affidavit of the plaintiffs. In view of the fact that no written statement has been filed on behalf of the defendants, all the averments made in the plaint have to be taken to be admitted. Further, since no affidavit of admission/denial has been filed on behalf of the defendants in respect of the documents filed with the plaint, in terms of Rule 3 of the Delhi High Court (Original Side) Rules 2018, the same are deemed to have been admitted.

26. The documentary evidence, which is already on record, is *ex-facie* proof of the defendants' acts of infringement. Further, the same is unrebutted since no affidavit of admission and denial of documents has been filed by the defendants. It is further submitted that the report of the Local Commissioner appointed by this Court contains factual observations that corroborate the plaintiffs' case and clearly establish the defendants' infringing conduct.

27. Therefore, I am of the opinion that no purpose would be served by directing the plaintiffs to lead *ex parte* evidence by filing an affidavit of



examination in chief and the plaintiffs are entitled to a summary judgment.

28. From the averments made in the plaint and the evidence on record, the plaintiffs have been able to prove that the plaintiffs are the registered proprietors of the “MINDA” trademarks/labels.

29. A comparison between the plaintiffs’ registered marks/labels and the impugned marks/labels used by the defendants is set out below:

	PLAINTIFFS’ TRADE MARKS	DEFENDANTS’ MARKS
MARKS	MINDA UNO MINDA SPARK MINDA	SUPER MINDA SUPERMINDA SUPERM INDIA
LABEL	  	  

30. A bare perusal of the competing marks/labels makes it apparent that the defendants have copied the plaintiffs’ registered and reputed “MINDA” trademarks/labels.

31. Counsel appearing on behalf of the defendants submits that the adoption of the impugned marks is *bona fide* and the mark of the defendant “SUPERM INDIA” is distinct from the marks of the plaintiffs. He further submits that the defendant no.1 had also applied for registration of the said mark in class 4 on 14th September, 2020 on a ‘*proposed to be used*’ basis.

32. I cannot agree with the aforesaid submission. The counsel for the plaintiffs have filed screenshots from the defendants social media pages on Facebook and Instagram (Page no.1104-1115, plaintiffs’ documents),



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screenshots of the defendants' listings on 'www.indiamart.com' (Page no.1116-1135, plaintiffs' documents) and a copy the defendant's product catalogue (Page no.1160-1171, plaintiffs' documents) to evidence that the defendants are actually using the mark 'SUPERMINDA' and not 'SUPERMINDA'.

33. The defendants are in clear violation of an undertaking previously given to this Court in a prior trademark infringement suit instituted by the plaintiffs. The relevant terms of the Settlement Agreement dated 16th August, 2021, based on which the suit was decreed, were set out in the order dated 8th April, 2022 passed in the said suit are set out below:-

"j. The Second Party undertakes not to manufacture any product for any third party in any manner with the mark/name/label MINDA and its variants and derivatives and under any mark/label that is identical and/or deceptively similar thereto or that amounts to infringement of the First Party's rights therein. The Second Party also undertakes to destroy any packing material in their possession with the

mark/name STAR MINDA and/or label   *and/or any mark/label deceptively similar thereto;*

k. The Second Party undertakes not to use the domain name www.starminda.com or any other domain name that contains any mark identical or deceptively similar to the First Party's mark/label MINDA or its formatives;

m. The Second Party acknowledges and agrees that any breach of this present Agreement would result in irreparable harm to the First Party. Accordingly, the Second Party agrees that if there is any breach by the Second Party in any terms of the present agreement, the First Party shall be entitled to injunctive relief along with damages in accordance with law."

[Emphasis is mine]

34. The use of the mark 'SUPERMINDA' or for that matter, 'SUPERMINDA' would clearly be in violation of aforesaid undertaking. It is evident



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that the defendants are habitual infringers who have conducted their affairs with the sole intent to defeat the order dated 8th April, 2022 passed by this Court in CS (COMM) 449/2020, which would amount to contempt of this Court.

35. Based on the discussion above, a clear case of infringement of trademarks is made out. The defendants have taken unfair advantage of the reputation and goodwill of the plaintiffs' trademarks and have also deceived the unwary consumers of their association with the plaintiffs by dishonestly adopting the plaintiffs' registered marks without any plausible explanation. Therefore, the plaintiffs have established a case of passing off as well.

36. Besides a decree of permanent injunction, counsel for the plaintiffs also presses for reliefs of compensatory damages, exemplary damages and costs.

37. It is a settled principle of law that while awarding damages, the Court has to adopt a stringent approach in awarding damages where the infringement is deliberate and *mala-fide*. In ***Koninlijke Philips N.V. & Anr. v. Amazestore & Ors.*** 2019 SCC OnLine Del 8198, a Coordinate Bench of this Court outlined principles for awarding proportionate damages on the basis of degree of *mala-fide* conduct. The relevant observations of the coordinate bench are extracted below:

“40. Keeping in view the aforesaid, this Court is of the view that the rule of thumb that should be followed while granting damages can be summarised in a chart as under:-

#	<i>Degree of mala fide conduct</i>	<i>Proportionate award</i>
(i)	<i>First-time innocent infringer</i>	<i>Injunction</i>



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(ii)	<i>First-time knowing infringer</i>	<i>Injunction + Partial Costs</i>
(iii)	<i>Repeated knowing infringer which causes minor impact to the Plaintiff</i>	<i>Injunction + Costs + Partial damages</i>
(iv)	<i>Repeated knowing infringer which causes major impact to the Plaintiff</i>	<i>Injunction + Costs + Compensatory damages.</i>
(v)	<u><i>Infringement which was deliberate and calculated (Gangster/scam/mafia) + wilful contempt of court.</i></u>	<u><i>Injunction + Costs + Aggravated damages (Compensatory + additional damages)</i></u>

41. It is clarified that the above chart is illustrative and is not to be read as a statutory provision. The Courts are free to deviate from the same for good reason.”

[Emphasis is mine]

38. In ***Cartier International A.G. v. Gaurav Bhatia***, 2016 SCC OnLine Del 8, while granting the damages in case where defendants were selling counterfeit watches and did not appear to contest the suit filed by the plaintiff, a Coordinate Bench of this Court has observed that the defendant who deliberately avoids court proceedings should not be allowed to benefit from such evasion as that would be unfair to a defendant who submits account records and is held liable for damages, while one who evades proceedings escapes liability due to the absence of financial records. The relevant extract is given below:



“66. It is well settled that damages in such cases must be awarded and a defendant, who chooses to stay away from the proceedings of the Court, should not be permitted to enjoy the benefits of evasion of court proceedings. Any view to the contrary would result in a situation where the defendant who appears in Court and submits its account books would be liable for damages, while a party which chooses to stay away from court proceedings would escape the liability on account of failure of the availability of account books.

67. A party who chooses not to participate in court proceedings and stay away must, thus, suffer the consequences of damages as stated and set out by the plaintiffs as the Court in the present case are dealing with counterfeiting products. It is rank case of dishonesty where the piracy committed by the defendants is apparent on the face of the record. It is just like printing of duplicate currency. The counterfeiter can never be allowed to do such illegal activities. Cheating can never be condoned by the Court unless the accused is punished.

68. Sub-Section (1) of Section 135 of the Trade Marks Act, 1999 provides that relief may be granted in any suit for infringement or for passing off includes injunction and at the option of the plaintiff, either damages or an account of profits. The plaintiffs have chosen the route of damages. The plaintiffs in the present matter while establishing in evidence have been able to prove the damages suffered by them. Materials have been filed and proved accordingly. The damages which they claim are attributable to flagrant infringement.”

[Emphasis is mine]

39. In ***Hindustan Unilever Limited v. Reckitt Benckiser India Limited*** ILR (2014) 2 Del 1288, a Division Bench of this Court outlined the principle of ‘rough and ready calculations’ for awarding damages. In ***Hindustan Unilever v. Reckitt Benckiser*** (supra), the Division Bench also affirmed the principles governing the grant of exemplary damages as laid down by the House of Lords in ***Rookes v. Barnard***, [1964] 1 All E. R. 367 and ***Cassell &***



Co Ltd v. Broome, [1992] AC 1027. Following **Hindustan Unilever v. Reckitt Benckiser** (supra), a Coordinate Bench of this Court in **Whatman International Ltd. v. P. Mehta**, 2019 SCC OnLine Del 6856 held as under-

*“77. In the above Judgment, the Division Bench held that the principles laid down in the decisions in **Rookes v. Barnard**, (1964) 1 All ER 367 and **Cassell & Co Ltd v Broome**, [1992] AC 1027 govern the award of punitive damages. In **Rookes**, the House of Lords laid down that aggravated or punitive damages could be granted in the following three circumstances:—*

- “(a) Oppressive, arbitrary or unconstitutional action any the servants of the government;*
- (b) Wrongful conduct by the defendant which has been calculated by him for himself which may well exceed the compensation payable to the claimant; and*
- (c) Any case where exemplary damages are authorised by the statute.”*

*78. The conduct of the Defendants is wrongful to say the least. The Defendants have committed infringement of the Plaintiff's mark and impinged on their rights deliberately, consciously and wilfully for a period spanning over 25 years. Repeated legal action has not deterred them. They showed no remorse in the statements recorded. Thus, applying the principles in **Rookes v. Barnard** (supra), the present is a case for award of aggravated, punitive damages. The Ld. Counsel Mr. R. Chandrachud did submit that the Defendants tender their apologies, and also candidly admitted that the Defendants' conduct was not defensible. The Defendants have caused enormous loss to the Plaintiff in the form of not only selling lookalike filter paper under various brands namely ACHME, HIRAL etc. but have also sold counterfeit WHATMAN filter paper as evident from the analysis reports filed. They have not just caused damage to the Plaintiff but even to the customers who have purchased these products presuming the same to be genuine WHATMAN filter paper. The Plaintiff is accordingly awarded a decree of damages of Rs. 1 crore against Defendant No. 1 - Mr. Paresh Mehta, Defendant No. 3 - Mr. Mohit Mehta and their entities i.e. Defendant No. 7. The suit is further decreed against Defendant No. 2 - Mr. Bharat Patel, Defendant No. 4 - Mr. Jatin Parekh and Defendant No. 5 - Mr. Rajesh Patel for a sum of Rs. 25 lakhs each to be paid to the Plaintiff. The suit is also decreed against Defendant No. 8 - Mr. Ketan Ramniklal Sanghvi for a sum of Rs. 10 lakhs to be paid to the Plaintiff. All the sums imposed as damages would be liable to be paid by Defendant Nos.*



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1 to 5 and 7 & 8 to the Plaintiff within a period of three months from today.”

40. The aforesaid principles would be squarely applicable in the present case. As discussed above, despite giving an undertaking in the earlier suit not to use any marks similar to the plaintiffs’ registered ‘MINDA’ marks, the defendants continued to sell identical products as those of the plaintiffs, i.e. oils and lubricants bearing the marks ‘SUPERMINDA/SUPERM INDA’ which are deceptively similar to the plaintiffs’ registered marks. This was in wilful disobedience of the order passed by this Court on 8th April, 2022 in CS (COMM) 449/2020 and would amount to contempt. Further, the defendants have wrongfully gained financial benefits from the unauthorized sale of products bearing the impugned marks.

41. In the present case, the defendants were admittedly served by ordinary means on 16th November, 2023. However, the defendants only entered appearance for the first time on 5th February, 2024. Even after entering appearance, the defendants deliberately failed to bring their written statement on record to delay the suit. Thereafter, the defendants were proceeded against *ex-parte* on 6th September, 2024. Further, the defendants also sought adjournments on 27th November, 2024 and 17th January, 2025 on the ground that they wish to file an application for setting aside the *ex-parte* order. However, no such application was filed. Despite accepting notice in the present application for summary judgment on 27th November, 2024, no reply to the present application has been filed by the defendants. Clearly, the defendants have not acted in a *bona fide* manner in defending the present suit.

42. What emerges from the aforesaid analysis is that the defendants have



violated the undertaking given in the previous suit and are habitual infringers who have continued to infringe the registered marks of the plaintiff marks. Even the conduct of the plaintiff in defending the present suit shows that the defendants have no remorse. Therefore, in my view, compensatory damages alone would be inadequate to compensate the plaintiffs. Thus, applying the principles of *Rookes v. Barnard* (supra), as affirmed by the Division Bench in *Hindustan Unilever v. Reckitt Benckiser* (supra) and the Co-ordinate Bench in *Whatman v. P. Mehta* (supra), the present case is a fit case for awarding exemplary damages.

43. In light of the discussion above, this Court concludes that the defendants' conduct not only warrants but also necessitates the imposition of compensatory as well as aggravated damages.

RELIEF

44. In view of the foregoing analysis, a decree of permanent injunction is passed in favour of the plaintiffs and against the defendants in terms of prayer clauses 70 (a) and (b) of the plaint.

45. Further, the defendants are directed to withdraw the trademark applications no.4655336 and no.4916099 filed for the registration of impugned trademarks 'SUPERM INDA' and '**SUPERMINDA**', in terms of prayer clause 70 (c) of the plaint.

46. The plaintiffs are entitled to a decree of damages in terms of prayer clause 70 (f) of the plaint against the defendants jointly and severally. The damages are awarded in the following manner:-

- i. A sum of INR 5,00,000/- is awarded as compensatory damages in favour of the plaintiffs and against the defendants.



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- ii. A sum of INR 5,00,000/- is awarded as exemplary damages in favour of the plaintiffs and against the defendants.
47. Insofar as the relief of costs sought in prayer clause 70 (g) is concerned, for the purposes of calculation of actual costs, the plaintiffs are directed to file their bill of costs in terms of Rule 5 of Chapter XXIII of the Delhi High Court (Original Side) Rules, 2018 within four weeks.
48. For this purpose, the representatives of the plaintiff shall appear before the taxation officer on 28th April, 2025, who shall determine the actual costs incurred by the plaintiff in the present litigation.
49. Counsel for the plaintiffs does not press for the remaining reliefs prayed for in the plaint.
50. Let the decree sheet be drawn up.
51. The pending application stands disposed of.

AMIT BANSAL, J

MARCH 21, 2025

Vivek/-