

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

Date of decision: 26th April, 2012

+ **MAC.APP. 20/2011**

CHANDRA DEVI & ORS Appellants
Through Mr. S.N. Parashar, Advocate

versus

NEW INDIA ASSURANCE CO LTD & ORS Respondents
Through Ms. Neerja Sachdeva, Advocate
for the Respondent No.1

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. On account of clerical mistake, in the order dated 17.04.2012, the date is wrongly mentioned as 09.10.2012. It shall be read as 26.04.2012.
2. The Appeal is for enhancement of compensation of ₹1,92,630/- for the death of Kamal Kumar Singh, who died in a motor accident which occurred on 09.09.2005.
3. It is urged by the learned Counsel for the Appellants that the deceased was a BCA student giving private tuitions to the children. Instead of taking minimum wages of a Matriculate, his potential income after the completion of the course should

have been considered by the Claims Tribunal for the award of compensation.

4. In the case of *Haji Zainullah Khan (Dead) by Lrs. v. Nagar Mahapalika, Allahabad, 1994 (5) SCC 667*, death of a young boy, aged 20 years took place in an accident which happened in the year 1972. The deceased was a student of B.Sc Ist year (Biology), a compensation of ₹1,46,900/- was increased and rounded off to ₹1,50,000/-.
5. In *Ganga Devi & Ors. v. New India Assurance Co. Ltd. & Ors., MAC APP. 359/2008*, decided by this Court on 23.11.2009, which related to the death of a student (studying medicine) who was doing internship and was to be awarded the MBBS degree in a short time, the Tribunal awarded a compensation of ₹ 9,35,352/- on the basis of the minimum wages of a Graduate. This Court observed that although the deceased was getting a stipend of ₹ 5,000/- per month at the time of his death due to the accident, he would have ultimately joined as a doctor at a salary ranging between ₹ 16,000/- per month to ₹ 25,000/- per month. Thus, the average monthly income of the deceased was taken as ₹ 18,000/- and after adding 50% towards future prospects, the compensation was enhanced to ₹ 21,36,000/-.
6. In *Ramesh Chand Joshi v. New India Assurance Company MAC APP.212-213/2006* decided on 20.01.2010 this Court took the potential income of a BE (Bio-Technology) First year student of

Delhi College of Engineer (DCE) ₹38,333/- per month.

7. It was proved on record from the testimony of PW-3 Sumesh Arora, Administrative Officer, Jaipuria Institute, Vasundara, Ghaziabad, U.P. and the documents Exs.PW-1/1 and PW-1/2 that the deceased was pursuing BCA from the above stated Institute. Although, no evidence regarding the placement after completion of the course was proved on record, yet it can be assumed that the deceased would have earned a salary at least of ₹ 10,000/- per month immediately on completion of the course.
8. The deceased's mother was aged about 66 years at the time of the accident. Adopting the multiplier of '5', the loss of dependency would come to ₹ 3,00,000/- (₹10,000/- x 1/2 x 12 x 5).
9. On adding a further sum of ₹45,000/- towards conventional heads, i.e. ₹25,000/- towards Loss of Love and Affection, ₹10,000/- each towards Loss to Estate and Funeral Charges, the overall compensation comes to ₹3,45,000/-.
10. The compensation is enhanced from ₹1,92,630/- to ₹3,45,000/- which shall carry interest @ 8% per annum from the date of filing of the Petition till the date of payment as granted by the Claims Tribunal.
11. Respondent No.1 New India Assurance Company Limited is directed to deposit the enhanced amount along with the interest

with UCO Bank, Delhi High Court Branch, New Delhi in the account of Appellant No.2, as the deceased's mother had died during the proceedings.

12. The Appeal is allowed in above terms.

(G.P. MITTAL)
JUDGE

APRIL 26, 2012

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