

**Ram Chander and Another Vs. Chakardhari and Others**

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**Court :** Delhi

**Decided On :** Feb-29-2012

**Judge :** G.P. Mittal

**Appeal No. :** MAC. APP. No.785 of 2011

**Appellant :** Ram Chander and Another

**Respondent :** Chakardhari and Others

**Judgement :**

**JUDGMENTG.P. MITTAL, J.**

1. The Appeal is for enhancement of compensation of `3,94,000/- awarded for the death of Ravinder who was aged 21 years and was a driver by profession.
2. During inquiry before the Claims Tribunal, it was claimed that the deceased was a matriculate, the accident was caused on account of rash and negligent driving of Trailer bearing registration No.HR-38K-6535 and that the deceased was a driver by profession in a company called Golden Earth Movers.
3. By the impugned judgment, the Claims Tribunal found that the accident took place on account of the negligence of the driver of the Trailer bearing registration No.HR-38K-6535. The Claims Tribunal did not rely on the salary certificate Ex.PW2/2 and computed the loss of dependency on the minimum wages of a

skilled worker.

4. Since no Cross-Appeal or Appeal has been filed by the Trailer's driver or the Insurance Company, the finding on the aspect of deceased's death due to negligence of the driver of the Trailer has become final.

5. The learned counsel for the Appellant argues that apart from other evidence, the Appellants filed an affidavit of Praveen Dabas, the deceased's employer as Ex.PW2/A. He also entered the witness box as PW2. In his affidavit, the witness testified that the deceased was getting a salary of `10,000/- per month. He also proved the salary certificate Ex.PW2/2. In cross-examination, the witness denied the suggestion that the deceased was not employed by him. He denied that the accident took place on account of the deceased's negligence. No question was asked from this witness on the quantum of salary or the certificate Ex.PW2/2.

6. The Claims Tribunal, in my opinion, erred in rejecting the certificate Ex.PW2/2 and PW2's testimony with regard to the deceased's income. I would accept the deceased's income to in Sunil Sharma v. Bachitar Singh (2011) 11 SCC 425 and in Baby Radhika Gupta v. Oriental Insurance Company Limited (2009) 17 SCC 627 granted only `25,000/- (in total to all the claimants) under the head of loss of love and affection. I would follow the same. The compensation under the head of loss of love and affection is reduced from `50,000/- to `25,000/-.

8. The overall compensation is re-computed as under:

S.No.	Head of Compensation	Granted by the Claims Tribunal	Granted by this Court
1.	Loss of Dependency	`3,24,000/-	`5,40,000/-
2.	Loss of Love and Affection	`50,000/-	`25,000/-
3.	Funeral Expenses	`10,000/-	`10,000/-
4.	Loss to Estate	`10,000/-	`10,000/-
Total		`3,94,000/-	`5,85,000/-R

10. The enhanced compensation of `1,91,000/- shall carry interest @ 7.5% per annum from the date of filing of the Petition till the date of payment.

11. The Respondent No.3 Oriental Insurance Company Ltd. is directed to deposit the increased amount along with interest within 30 days with the Registrar General of this Court.

12. 25% of the enhanced amount along with proportionate interest shall be released to the First Appellant forthwith on deposit. Rest of the amount shall be released/held in a Fixed Deposit in favour of the Second Appellant for a period of three years.

13. The Appeal is allowed in above terms.

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