

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 3<sup>rd</sup> February, 2010

**MAC.APP. 512-13/2006**

D.T.C. & ORS. .... Appellants  
Through : Mr. Jyotindra Kumar, Adv.

versus

MEENA KUMARI & ANR. .... Respondents  
Through : Mr. S.S. Tomar, Adv. for R-4 and 5.  
Ms. Rajdipa Behura, amicus curiae.

**MAC.APP. 570-71/2006**

RAMKISHAN & ANR .... Appellants  
Through : Mr. S.S. Tomar, Adv.

versus

D.T.C. & ORS. .... Respondents  
Through : Mr. Jyotindra Kumar, Adv.  
for R-1 and 2.  
Ms. Rajdipa Behura, amicus curiae

**CORAM :-**

**THE HON'BLE MR. JUSTICE J.R. MIDHA**

- |    |   |     |
|----|---|-----|
| 1. | Whether Reporters of Local papers may be allowed to see the Judgment? | YES |
| 2. | To be referred to the Reporter or not?                                | YES |
| 3. | Whether the judgment should be reported in the Digest?                | YES |

**JUDGMENT (Oral)**

1. The appellants have challenged award of the learned Tribunal whereby compensation of Rs.1,50,000/- has been awarded to the claimants. The appellant in MAC.App.No.512-513 of 2006 has challenged the award on the ground that appellant is not liable to pay any compensation to the claimants whereas the appellants in

amount.

2. The accident dated 29<sup>th</sup> January, 1992 arising out of a bomb blast in DTC Bus bearing No.DEP 8264 at Mall Road Bus stand resulted in the death of Sansar Pal.

3. The deceased was survived by his widow, one minor son, one minor daughter and parents. The deceased was aged about 28 years at the time of the accident and was doing a private job earning Rs.2,000/- per month. The learned Tribunal took the minimum wages of Rs.1,300/-, deducted 1/3<sup>rd</sup> towards the personal expenses and applied the multiplier of 18 to compute the loss of dependency at Rs.1,87,200/- rounded off to Rs.1,80,000/-. The learned Tribunal awarded Rs. 5,000/- towards funeral expenses, Rs.5,000/- towards loss of love and affection and Rs.10,000/- towards pain and suffering. The total compensation was computed to be Rs.2,00,000/- out of which Rs.50,000/- paid by Lt. Governor of Delhi as ex-gratia payment was deducted and Rs.1,50,000/- was awarded to the claimants.

4. The learned counsel for appellant in MAC.APP.No.512-513/2006 has urged, at the time of hearing of this appeal, that the accident did not occur due to rash and negligent driving of the driver of the bus and, therefore, DTC is not liable to pay any compensation to the claimants.

5. The learned counsel for the appellant in MAC.APP.No.570-71/2006 has urged the following grounds at the time of hearing of

- (i) The income of the deceased be taken to be Rs.2,000/- per month and 50% be added towards future prospects.
- (ii) In the alternative, increase in minimum wages due to inflation and rise in price index be taken into consideration.
- (iii) The deduction towards the personal expenses of the deceased be reduced from  $1/3^{\text{rd}}$  to  $1/4^{\text{th}}$ .
- (iv) The compensation be awarded for loss of consortium.
- (v) The compensation be awarded for loss of estate.
- (vi) The share of the parents in the award amount be enhanced.
- (vii) The deduction of ex-gratia amount of Rs.50,000/- paid by Lt. Governor of Delhi to the claimants be set aside.
- (viii) The rate of interest be enhanced from 5.5% per annum to 7.5% per annum.

6. Considering the question of law with respect to the compensation payable in case of bomb blast, this Court appointed Ms. Rajdipa Behura, as amicus curiae to assist this Court.

7. The first question that arises for consideration in these appeals are whether DTC is liable to pay compensation for death of Sansar Pal arising out of a bomb blast in a DTC bus.

8. The law with respect to aforesaid question is well settled by the following judgments:

There was a collision between a petrol tanker and a truck due to which the petrol tanker went off the road and fell at a distance of about 20 feet from the highway leading to leakage of petrol which collected nearby. Later an explosion took place in the petrol tanker resulting in fire. Number of persons who assembled near the petrol tanker sustained burn injuries and few of them succumbed to the injuries. The victims filed the claim petitions which were dismissed by the Claims Tribunal on the ground that the explosion and the fire had no connection with the accident, and was altogether an independent accident. The appeal was allowed by the learned Single Judge of the High Court holding that the explosion was a direct consequence of the accident. The Division Bench of the High Court affirmed the findings of the learned Single Judge against which the matter came up before the Hon'ble Supreme Court.

The Hon'ble Supreme Court dismissed the Special Leave Petition holding that the explosion and fire resulting in injuries and death was due to the accident arising out of the use of the motor vehicle. The findings of the Hon'ble Supreme Court are reproduced hereunder:-

“25. These decisions indicate that the word "use", in the context of motor vehicles, has been construed in a wider sense to include the period when the vehicle is not moving and is stationary, being either parked on the road and when it is not in a position to move due to some break-down or mechanical defect. Relying on the abovementioned decisions, the Appellate Bench

accidents which occur both when the vehicle is in motion and when it is stationary. With reference to the facts of the present case the learned Judges have observed that the tanker in question while proceeding along National Highway No. 4 (i.e. while in use) after colliding with a motor lorry was lying on the side and that it cannot be claimed that after the collision the use of the tanker had ceased only because it was disabled. We are in agreement with the said approach of the High Court. In our opinion, the word "use" has a wider connotation to cover the period when the vehicle is not moving and is stationary and the use of a vehicle does not cease on account of the vehicle having been rendered immobile on account of a break-down or mechanical defect or accident. In the circumstances, it cannot be said that the petrol tanker was not in the use at the time when it was lying on its side after the collision with the truck."

"35. This would show that as compared to the expression "caused by", the expression "arising out of" has a wider connotation. The expression "caused by" was used in Sections 95(1)(b)(i) and (ii) and 96(2)(b)(ii) of the Act. In Section 92-A, Parliament, however, chose to use the expression "arising out of" which indicates that for the purpose of awarding compensation under Section 92-A, the causal relationship between the use of the motor vehicle and the accident resulting in death or permanent disablement is not required to be direct and proximate and it can be less immediate. This would imply that accident should be connected with the use of the motor vehicle but the said connection need not be direct and immediate. This construction of the expression "arising out of the use of a motor vehicle" in Section 92-A enlarges the field of protection made available to the victims of an accident and is in consonance with the beneficial object underlying the enactment."

"36. Was the accident involving explosion and fire in the petrol tanker connected with the use of tanker as a motor vehicle? In our view, in the facts and circumstances of the present case, this question must be answered in the affirmative.

combustible and volatile material and after the collision with the other motor vehicle the tanker had fallen on one of its sides on sloping ground resulting in escape of highly inflammable petrol and that there was grave risk of explosion and fire from the petrol coming out of the tanker. In the light of the aforesaid circumstances the learned Judges of the High Court have rightly concluded that the collision between the tanker and the other vehicle which had occurred earlier and the escape of petrol from the tanker which ultimately resulted in the explosion and fire were not unconnected but related events and merely because there was interval of about four to four and half hours between the said collision and the explosion and fire in the tanker, it cannot be necessarily inferred that there was no causal relation between explosion and fire. In the circumstances, it must be held that the explosion and fire resulting in the injuries which led to the death of Deepak Uttam More was due to an accident arising out of the use of the motor vehicle viz. the petrol tanker No. MKL 7461.”

**(ii) Rita Devi vs. New India Assurance Co. Ltd., 2000 ACJ 801 (SC)**

The deceased was employed to drive an auto rickshaw for ferrying passengers on hire. On the fateful day, the auto rickshaw was parked in the rickshaw stand at Dimapur when some unknown passengers engaged the deceased for journey. As to what happened on that day is not known. It was only on the next day that the police was able to recover the body of the deceased but the auto rickshaw in question was never traced out. The owner of the auto rickshaw claimed compensation from the insurance company for the loss of auto rickshaw. The heirs of the deceased claimed compensation for the death of the driver on the ground that the death occurred on account of accident arising out of use of the

would be entitled to compensation. The question as to whether the case of murder would be covered was also gone into. Paras 9 and 10 are relevant and are quoted below:-

“9. A conjoint reading of the above two Sub-clauses of Section 163A shows that a victim or his heirs are entitled to claim from the owner/Insurance Company a compensation for death or permanent disablement suffered due to accident arising out of use of the motor vehicle (emphasis supplied), without having to prove wrongful act or neglect or default of any one. Thus it is clear, if it is established by the claimants that the death or disablement was caused due to an accident arising out of the use of motor vehicle then they will be entitled for payment of compensation. In the present case, the contention of the Insurance Company which was accepted by the High Court is that the death of the deceased (Dasarath Singh) was not caused by an accident arising out of the use of motor vehicle. Therefore, we will have to examine the actual legal import of the words 'death due to accident arising out of the use of motor vehicle'.

10. The question, therefore, is can a murder be an accident in any given case ? There is no doubt that 'murder', as it is understood, in the common parlance is a felonious act where death is caused with intent and the perpetrators of that act normally have a motive against the victim for such killing. But there are also instances where murder can be by accident on a given set of facts. The differences between a 'murder' which is not an accident and a 'murder' which is an accident, depends on the proximity of the cause of such murder. In our opinion, if the dominant intention of the Act of felony is to kill any particular person then such killings is not an accidental murder but is a murder simplicitor, while if the cause of murder or act of murder was originally not intended and the same was caused in furtherance of any other felonious act then such murder is an accidental murder.”

(iii) **Samir Chanda v. Managing Director, Assam State Trans,**

The Apex Court upheld the claim for compensation in respect of injuries were suffered by the claimant due to bomb blast inside the vehicle relying on the decision given in **Shivaji Dayanu Patil's case** (supra).

**(iv) Kaushnuma Begum vs. New India Assurance Co. Ltd., 2001 ACJ 428**

The Hon'ble Supreme Court held that the principle of strict liability propounded in **Rylands vs. Fletcher 1861 All E R 1** was applicable in claims for compensation made in respect of motor accidents. The relevant findings of the Hon'ble Supreme Court are reproduced hereunder:-

“12. Even if there is no negligence on the part of the driver or owner of the motor vehicle, but accident happens while the vehicle was in use, should not the owner be made liable for damages to the person who suffered on account of such accident? This question depends upon how far the Rule in *Rylands vs. Fletcher* (supra) can apply in motor accident cases. The said Rule is summarised by Blackburn, J, thus:

"The true rule of law is that the person who, for his own purposes, brings on his land, and collects and keeps there anything likely to do mischief if it escapes, must keep it at his peril, and, if he does not do so, he is prima facie answerable for all the damage which is the natural consequence of its escape. He can excuse himself by showing that the escape was owing to the plaintiff's default, or, perhaps, that the escape was the consequence of vis major, or the act of God; but, as nothing of this sort exists here, it is unnecessary to inquire what excuse would be sufficient."

“19. Like any other common law principle, which is acceptable to our jurisprudence, the Rule in

can be evolved, or until legislation provides differently. Hence, we are disposed to adopt the Rule in claims for compensation made in respect of motor accidents.

20. "No Fault Liability" envisaged in Section 140 of the MV Act is distinguishable from the rule of strict liability. In the former the compensation amount is fixed and is payable even if any one of the exceptions to the Rule can be applied. It is a statutory liability created without which the claimant should not get any amount under that count. Compensation on account of accident arising from the use of motor vehicles can be claimed under the common law even without the aid of a statute. The provisions of the MV Act permits that compensation paid under 'no fault liability' can be deducted from the final amount awarded by the Tribunal. Therefore, these two are resting on two different premises. We are, therefore, of the opinion that even apart from Section 140 of the MV Act, a victim in an accident which occurred while using a motor vehicle, is entitled to get compensation from a Tribunal unless any one of the exceptions would apply. The Tribunal and the High Court have, therefore, gone into error in divesting the claimants of the compensation payable to them."

**(v) National Insurance Co. Ltd. vs. Shiv Dutt Sharma, 2004 ACJ 2049 (J&K)**

Two sets of claims were made in this case; one relating to the accident in a bus and the other relating to an accident where bullets of terrorists killed the passengers of a bus. The Jammu and Kashmir High Court held as under:-

"43. On the basis of the judicial pronouncements and the material which has come on the record, it is concluded:

(i) That a passenger travelling in a bus when he suffers from an injury on account of bomb explosion or on account of any other activity

is spelt out from the decision given by the Supreme Court of India in Shivaji Dayanu Patil v. Vatschala Uttam More, 1991 ACJ 777 (SC) and the latter decisions noticed above;

(ii) That even if a person is not actually in the vehicle and is standing outside and suffers an injury, even in that case Supreme Court of India has allowed compensation in Shivaji Dayanu Patil v. Vatschala Uttam More, 1991 ACJ 777 (SC). Therefore, merely because some of the victims were taken out of the bus and thereafter shot dead, would not make any difference;

(iii) That the material which has come on the record justified the grant of the compensation and the quantum thereof is accordingly sustained.”

9. Following the aforesaid judgments, it is held that the accident in question arose out of the use of the motor vehicle and, therefore, the claimants are entitled to compensation under Section 163-A of the Motor Vehicle Act.

10. The deceased was aged 28 years at the time of accident and has left behind five legal representatives. According to the judgment of Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) Scale 129**, the appropriate deduction where the deceased has left behind 4 to 6 legal representatives is  $1/4^{\text{th}}$ . The personal expenses of the deceased are therefore reduced from  $1/3^{\text{rd}}$  to  $1/4^{\text{th}}$ .

11. The learned counsel for the claimants has submitted that the deceased was working as a supervisor with Ravi & Co. drawing a salary of Rs.2,000/- which should be taken into consideration for computation of compensation. Learned counsel for the claimants

consideration. The widow of the deceased appeared in the witness box as PW-1 and deposed that her husband was engaged in a private job earning Rs.2,000/- per month. The salary certificate dated 12<sup>th</sup> January, 1993 issued by Ravi & Co. was placed on record in which it was certified that the deceased was working with the said company since 18<sup>th</sup> December, 1990 till his death on 29<sup>th</sup> January, 1992 as Supervisor at a salary of Rs.2,000/- per month. The father of the deceased also appeared in the witness box as R3W1 and deposed that the deceased was earning Rs.2,000/- per month. R3W1 proved the documents relating to the educational and technical qualifications and the first job of the deceased as Ex.R3W1/1 to Ex.R3W1/8. Though the salary certificate has not been formally proved by examining the employer, it has been corroborated by the statements of PW-1 and R3W1 and, therefore, the income of the deceased at the time of the accident is taken to be Rs.2,000/- per month. The learned Tribunal has erred in not taking the aforesaid documents into consideration. Since the income of the deceased has been proved, the principle of minimum wages has no application to the present case. The claim of future prospects is rejected as it has not been proved that the job of the deceased was of permanent nature.

12. There is another aspect of the matter. Even if the minimum wages are taken into consideration, the amount after taking the inflation and rise in price index would be almost equal to the salary

wages as Rs.1,300/-. However, the increase in minimum wages has not been taken into consideration. It is well settled by the catena of judgments of this Court in the cases of **Kanwar Devi vs. Bansal Roadways, 2008 ACJ 2182**, **National Insurance Company Limited vs. Renu Devi III (2008) ACC 134** and **UPSRTC vs. Munni Devi, MAC.APP.No.310/2007** decided on 28.07.2008 that the Court should take judicial notice of increase in minimum wages to meet the increase in price index and inflation rate. This Court has taken the view that the minimum wages get doubled over the period of 10 years and increase in minimum wages is not akin to future prospects and the income should be computed by taking the average of minimum wages and its double. Following the aforesaid judgments, the minimum wages after taking the increase due to inflation and rise in price index would be Rs.1,950/- per month [(Rs.1,300 + Rs.2,600)/2]. The income of Rs.2,000/- per month of the deceased is, therefore, almost equal to the minimum wages.

13. The learned Tribunal has not awarded any compensation towards loss of consortium as well as loss of estate. Rs.10,000/- is awarded towards loss of consortium and Rs.10,000/- towards loss of estate.

14. The learned Tribunal has applied multiplier of 18 according to the Second Schedule of Motor Vehicles Act. According to the judgment of Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation**, (supra), the appropriate multiplier at

17. The claimants are entitled to total compensation of Rs.3,46,000/-  $[(2,000 \times \frac{3}{4} \times 12 \times 17) + 5,000 + 5,000 + 10,000 + 10,000 + \text{Rs.}10,000]$ .

15. The learned Tribunal has deducted Rs.50,000/- paid to Govt. of NCT of Delhi as ex-gratia amount. The said deduction is in conformity with the principles laid down by the Hon'ble Supreme Court in the case of **United India Insurance Co. Ltd. vs. Patricia Jean Mahajan AIR 2002 SC 2607** where the Hon'ble Supreme Court has held that the claimant is not entitled to claim compensation in respect of which the claimant has received the benefit as a consequence of the injuries sustained which otherwise he would not have been entitled to. The deduction of Rs.50,000/- by the Claims Tribunal is upheld. After deduction of Rs.50,000/- the claimants are held to be entitled to compensation of Rs.2,96,000/- (Rs.3,46,000 - Rs.50,000).

16. The learned Tribunal has awarded interest @ 5.5% per annum. Following the judgment of the Hon'ble Supreme Court in the case of **Dharampal vs. UP State Road Transport Corporation, III 2008 ACC (1) SC**, the rate of interest is enhanced from 5.5% per annum to 7.5% per annum from the date of filing of the petition till realization.

17. The learned counsel for DTC submits that amount of compensation awarded to the claimants is more than the amount claimed in the claim petition. It is well settled that the claimants

claimed. In **Nagappa vs. Gurudayal Singh, 2003 ACJ 12**, the Hon'ble Supreme Court held as under:-

“21. For the reasons discussed above, in our view, under the M.V. Act, there is no restriction that Tribunal/court cannot award compensation amount exceeding the claimed amount. The function of the Tribunal/court is to award ‘just’ compensation which is reasonable on the basis of evidence produced on record.”

18. The learned counsel for the DTC submits that the widow of the deceased shall be entitled to compensation for loss of dependency from the date of accident till the date of her remarriage. The learned counsel for DTC has referred to and relied upon the judgment of this Court in the case of **Nisha vs. Gyanvati, MAC.APP.794/2005** decided on 14<sup>th</sup> March, 2007 in which this Court has held that the widow shall be entitled to compensation only till her remarriage. The learned counsel submits that the widow got remarried within three years of the accident and, therefore, would not be entitled to compensation thereafter.

19. The Jammu and Kashmir High Court and the Rajasthan High Court have held that the re-marriage of widow cannot deprive her of compensation payable for the death of her husband in the following cases:-

(i) In **Seema Malik vs. Union of India, 2005 ACJ 1389**, the Jammu and Kashmir High Court examined the judgments of various High Courts on this issue and held as under:-

“5. Another issue which is required to be taken note of is with regard to the rights of a widow to

because a widow has remarried, is not to be made a ground for declining her compensation. In *Hariram v. Commissioner for Workmen's Compensation*, 1994 ACJ 1094 (MP), the view expressed was that the widow on remarriage cannot be deprived of her right of getting compensation. In the above case the argument put across was that as the widow had remarried, therefore, the entire amount be given to the father of the deceased. It was held that this legal proposition cannot be sustained. The reasoning given was that the inheritance never remains in abeyance and, therefore, rights of a widow are to be taken and recognised on the date when her husband dies. Therefore, she cannot be deprived of her right of getting compensation.

6. The Rajasthan High Court in the case reported as *Regal Sports v. Mohd. Siddique*, 1994 ACJ 294 (Rajasthan), held that the widow cannot be declined compensation on her remarriage. Amount awarded was Rs.66,420/-. This was reduced in appeal to Rs.50,000/-. What is sought to be pointed out is that the widow was held entitled to claim amount of compensation. In *Rajasthan State Road Transport Corporation v. Kiran Lata*, 1993 ACJ 130 (Rajasthan), the view expressed was that to deny compensation on the ground of possibility of remarriage of the widow would be enforcing a view which is against the public policy and would be violative of Section 23 of the *Contract Act*. It was accordingly observed that the question of possibility of remarriage would not come in the way at all and compensation is not to be based by taking into consideration the question of marriage or possibility of remarriage. In another decision of the Rajasthan High Court, reported as *Vimla Devi v. Chaman*, 1992 ACJ 1048 (Rajasthan), it was held that the denial of compensation is not to be on account of possibility of re-marriage of the widow of the deceased. Some other decisions dealing with this aspect of the matter are *Rajinder Kumar v. Soma Devi*, 2001 ACJ 307 (HP); *Chandan v. Kanwarlal*, 1989 ACJ 816 (Delhi); *Khairullah v. Anita* 1994 ACJ 1017 (AP); *Nankuram Saraidin v.*

ACJ 187(MP). Learned Judges in these cases have consistently held that remarriage of a widow would not disentitle her to claim compensation.

7. Another reason which re-enforces the above conclusion that on re-marriage of a widow the social stigma which stood imposed earlier is not completely washed of. Some negative factors continue to exist and are taken note of in the case of re-marriage of a widow. She may on re-marriage may not enjoy the same status and frame of mind. Re-adjustment when widow has an infant, creates other social problems and she has to provide some security to the child or children from the first husband. This factor has to be taken note of. As such a widow on re-marriage cannot be deprived of the compensation.

8. The mother of the minor had stated that the amount of compensation was required to be spent on educating and bringing up her minor son. According to her, that much amount which she would have got would have been spent on the upkeep of the minor. Her counsel has stated that whatever amount she becomes entitled to now be given to her son; so that this monetary relief be of some solace for the fatherly love which he was unable to enjoy. As the appeal has been preferred by the son and mother of the deceased, the awarded enhanced amount shall go to the son.“

(ii) In **Vimla Devi vs. Chaman, I (1992) ACC 170**, the Rajasthan High Court held that public feeling requires that there shall not be any deduction on account of possibility of remarriage. The findings of the High Court are as under:-

“4. Mr. Bhartiya has also cited before me the case of **Makbool Ahmed v. Bhura Lal 1986 ACJ 219 (Rajasthan)**. My brother Vyas, J., was considering the question of remarriage and held that the compensation should be paid only upto the date of remarriage and for the parents the multiplier was considered as 15 years. This case does not help Mr. Bhartiya in the facts and

guarantees equal treatment and particularly Article 15 of the Constitution read with preamble of the Constitution. Chapter IV of the Constitution directs the court and the Government to provide equality of opportunity, equality of status and to give special facilities and concession to the weaker class of the society, namely, the women. The days when the widow remarriage was prohibited have gone and after coming into force of the Hindu Marriage Act and Hindu Succession Act, the doctrine of limited case also lost its ground. Widow has a right to remarry and it is in the interest of the society that remarriage of the young lady should be encouraged and the court should not be an impediment because of the old traditional approach, where the power vested in the man and the females were considered as the second class members. For this purpose, Section 14 of the Hindu Succession Act, 1956 also provides the right of absolute ownership to a woman and I am of the view that to say that on account of the remarriage or possibility of remarriage deduction of compensation will be against the spirit of the Constitution and will put a check on the remarriage system provided under various legislations enacted by the Parliament and the State Assembly. I am in disagreement on this point that there should be any impediment or restriction, directly or indirectly, compelling a woman not to remarry. On the contrary, an incentive should be given for remarriage for the preservation of better society. After remarriage generally a woman does not get the same status and benefits of decent life as she used to get earlier. Public feeling requires that there shall not be any deduction on account of possibility of remarriage.”

(iii) In **Bhanwar Lal vs. Munshi Ram, 1988 ACJ 283**, the Rajasthan High Court held that the widow remarriage is a matter of satisfaction for all concerned but other members of the family should not suffer on this account. The deductions may act as impediment in the path of encouragement to widow remarriage.

The relevant findings of the High Court are as under:-

“7. ...In Hindu society remarriage of widow is still rare and considered to be a taboo even till today.

there is no reason why the other members of the family of deceased should suffer. The deductions may act impediment in path of encouragement to widow remarriage. Apart from this, the act is a piece of social legislation which has been enacted with a view to give benefit to the members of the family of the unfortunate victim who lost his life in a sad accident. I am, therefore, of considered opinion that it will not be appropriate and justified on any ground to deduct anything on account of remarriage of the widow of the deceased and to deny the benefit of the compensation to the aging parents of the deceased person.”

20. I am in respectful agreement with the view of the Jammu & Kashmir High Court and the Rajasthan High Court and hold that the remarriage/possibility of the remarriage will not deprive a person from compensation for the death of his/her spouse. The learned counsel for claimants submit that the widow got re-married after about 3 years of the death of the deceased and, therefore, enhanced award amount be apportioned considering that the ex-gratia amount of Rs.50,000/- was received by widow alone and out of the amount awarded by learned Tribunal, the parents were given only Rs.12,500/- each and the remaining amount was released to the children. It is noted that apart from the widow, the deceased has left behind two minor children and parents. The minor children continued to live with the widow even after her remarriage. No compensation has been awarded to the widow by the Claims Tribunal. However, out of the enhanced award amount, 10% of the compensation is reasonable to be given to the widow towards maintenance till her remarriage and for discharging her liability to

The remarriage of the widow has been considered by this Court and the shares of the children and parents are fixed considering the remarriage of the widow.

21. The appeal is allowed and the award amount is enhanced from Rs.1,50,000/- to Rs.2,96,000/- along with interest @ 7.5% per annum from the date of filing of petition up to the date of notice under Order 21 Rule 1 of the Code of Civil Procedure.

22. Considering the facts and circumstances of the case, it is directed that shares of the claimants in the enhanced award amount shall be as under:-

- |       |                                 |   |           |
|-------|---------------------------------|---|-----------|
| (i)   | Share of widow of the deceased  | : | 10%       |
| (ii)  | Share of father of the deceased | : | 15%       |
| (iii) | Share of mother of the deceased | : | 15%       |
| (iv)  | Shares of children              | : | 30% each. |

23. The enhanced award amount along with interest be deposited by DTC with UCO Bank A/c Suparo Devi, Delhi High Court Branch through Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400) within 60 days.

24. Upon the aforesaid deposit being made, UCO Bank is directed to release the share of the widow, Meena Kumari by transferring the same to her Saving Bank Account. With respect to the shares of the parents, 50% amount be released to them and the remaining 50% be kept in fixed deposit for one year with cumulative interest. The

which monthly interest be paid to them.

25. The interest on the aforesaid fixed deposits of the children shall be paid monthly by automatic credit of interest in the Savings Account of the respondents.

26. Withdrawal from the aforesaid account shall be permitted to the respondents after due verification and the Bank shall issue photo Identity Card to the respondents to facilitate identity.

27. No cheque book be issued to the respondents without the permission of this Court.

28. The Bank shall issue Fixed Deposit Pass Book instead of the FDR to the respondents and the maturity amount of the FDRs be automatically credited to the Saving Bank Account of the beneficiary at the end of the FDR.

29. No loan, advance or withdrawal shall be allowed on the said fixed deposit receipts without the permission of this Court.

30. Half yearly statement of account be filed by the Bank in this Court.

31. On the request of the respondents, the Bank shall transfer the Savings Account to any other branch of UCO Bank according to the convenience of the respondents.

32. The respondents shall furnish all the relevant documents for opening of the Saving Bank Account and Fixed Deposit Account to Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi.

34. This Court appreciates the effective assistance rendered by Ms. Rajdipa Behura, Advocate appointed as amicus curiae by this Court in this matter.

35. Copy of the order be given dasti to counsel for both the parties under the signatures of the Court Master.

36. Copy of this order be also sent to Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400) through the UCO Bank, High Court Branch under the signature of Court Master.

**FEBRUARY 03, 2010**

**J.R. MIDHA, J**