

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

*Date of decision: 31<sup>st</sup> May, 2012*

+ **MAC.APP. 600/2010**

SUMITRA SHARMA & ANR ..... Appellant  
Through: Mr. S.N. Parashar, Advocate

versus

NATIONAL INSURANCE CO LTD & ORS ..... Respondent  
Through: Mr. K.P. Chawla, Advocate for  
the R-1.

**CORAM:**  
**HON'BLE MR. JUSTICE G.P.MITTAL**

### **J U D G M E N T**

#### **G. P. MITTAL, J. (ORAL)**

1. The Appeal is for enhancement of compensation of ₹ 3,75,000/- awarded for the death of Amit Sharma in a motor accident which occurred on 20.10.2005.
2. It is urged by the learned counsel for the Appellants that the deceased was an extraordinary brilliant student and had scored 1067 rank in the Haryana State All India Common Engineering Entrance Test (CEET-2005). He got admission in the Institute of Technology and Management, Faridabad under the stream of Electronics and Communication Engineering.
3. The Motor Accident Claims Tribunal (the Claims Tribunal),

argues the learned counsel for the Appellants, erred in taking notional income of the deceased as ₹15,000/- against his potential income as an Electronics and Communication Engineer.

4. The Appeal must succeed.
5. The deceased Amit Sharma scored 89.3% marks in his 12<sup>th</sup> Class Examination held by the CBSE. He scored 97% marks in Mathematics.
6. Obviously, the deceased did not have any income on the date of the accident.
7. 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/-.
8. 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/-.

9. 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 Engineering (DCE) as ₹38,333/- per month.
10. A Division Bench of Andhra Pradesh High Court in *B.Ramulamma & Ors. v. Venkatesh, Bus Union, Rep. by A.M. Velu Mudaliyar & Anr., 2011 ACJ 1702*, held that it was very difficult to determine the income of a student who was allowed to complete his course. It was observed that it was appropriate and reasonable to take a salary at the entry level fixed by the Govt. for such jobs.
11. The gross salary of a Group 'A' officer in the Central and the State Govt., excluding the transport allowance was ₹17,940/- per month. If a qualified degree holder Engineer joins a Govt. service he would get this salary on a basic pay of ₹8,000/-. The placement in private sector was on a slightly higher side. Since the deceased had scored admission in a College which was not affiliated to a prestigious University, I would not make any

addition towards the future prospects.

12. The age of the deceased's mother on the date of the accident was 42 years. Thus, the appropriate multiplier to compute the loss of dependency was '14'. The loss of dependency thus comes to ₹14,41,048/- (17940/- x 12 – 9416/- (tax) x 1/2 x 14).
13. On adding a sum of ₹25,000/- towards loss of love and affection and ₹10,000/- each towards funeral expenses and loss to estate, the overall compensation comes to ₹14,86,048/-.
14. The compensation is enhanced from ₹3,75,000/- to ₹14,86,048/- which shall carry interest @ 7.5% per annum from the date of filing of the Petition till its payment.
15. Respondent No.1 National Insurance Company Limited is directed to make the deposit of the enhanced compensation along with interest within eight weeks with UCO Bank, Delhi High Court, New Delhi in the name of the Appellants.
16. The enhanced amount along with interest shall be payable to the Appellants in equal shares.
17. 70% of the enhanced amount shall be held in fixed deposit for a period of one year, three years, five years and seven years in equal proportion. Rest of the amount shall be released immediately on deposit.
18. The Appeal is allowed in above terms.

19. Pending Applications stand disposed of.

**(G.P. MITTAL)**  
**JUDGE**

**MAY 31, 2012**  
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