

## Asha and Others Vs Suresh Kumar and Others

**Court:** Delhi High Court

**Date of Decision:** April 11, 2012

**Acts Referred:** Motor Vehicles Act, 1988 " Section 163A

**Hon'ble Judges:** G.P. Mittal, J

**Bench:** Single Bench

**Advocate:** O.P. Mannie, for the Appellant; Rakesh Kakushik with Mr. Ajay Aggarwal, Advocate for the Respondent No. 1 Mr. Sandeep Bajaj, Advocate for the Respondents No. 2 to 5, for the Respondent

**Final Decision:** Allowed

### Judgement

G.P. Mittal, J.

The Appeal is for enhancement of compensation of Rs. 2,92,000/- awarded for the death of Madan Lal, who was aged about 41 years on the date of the accident. A Claim Petition was filed by the Appellants u/s 163-A of the Motor Vehicles Act (the Act). The

Appellants' grievance is that the deceased was working as a Safai Karamchari in the MCD on Daily Wages. In the absence of any documentary

evidence, the Motor Accident Claims Tribunal (the Claims Tribunal) instead of taking the deceased's income of an unskilled worker under the

Minimum Wages Act took the notional income of Rs. 30,000/- per annum and computed the loss of dependency as Rs. 2,80,000/-.

2. It is not disputed by the learned Counsel for the Appellant that in a Petition u/s 163-A of the Motor Vehicles Act, the compensation has to be

awarded as per the structured formula given in the Second Schedule. I am supported in this view by the reports of the Supreme Court in The

Oriental Insurance Co. Ltd. etc. Vs. Hansrajbhai V.Kodala and Others etc. etc., , Deepal Girishbhai Soni and Others Vs. United India Insurance

Co. Ltd., Baroda, and The Oriental Insurance Company Limited Vs. Meena Variyal and Others,

3. The contention raised on behalf of the Appellant is that even if the salary of a Safai Karamchari in MCD was not taken into consideration. The

Claims Tribunal should have taken minimum wages of an unskilled worker to compute the loss of dependency. I would agree with the contention

raised on behalf of the Appellant.

4. The Minimum Wages of an unskilled worker on the date of the accident i.e. 17.05.2004 were Rs. 2863/- per month.

5. Hence, the loss of dependency on the income of Rs. 2863/- per month comes to Rs. 3,43,560/- ( $2863/- \times \frac{2}{3} \times 12 \times 15$ ).

6. On adding notional sum of Rs. 9,500/- under various non-pecuniary heads i.e. for Loss of Consortium, Funeral Expenses and Loss to Estate

which would be Rs. 5,000/-, Rs. 2,000/- and Rs. 2,500/- respectively as per the Second Schedule, the overall compensation comes to Rs.

3,53,060/-.

7. The compensation thus stands enhanced from Rs. 2,92,000/- to Rs. 3,53,060/-. The enhanced compensation of Rs. 61,060/- shall carry

interest @ 7.5% per annum from the date of filing of the Petition till the date of payment.

8. The enhanced amount along with interest shall be deposited by Respondents No.2 to 4 with the Registrar General of this Court within six

weeks.

9. The enhanced compensation shall enure for the benefit of the first Appellant, the deceased's widow. 50% of the enhanced compensation along

with interest shall be held in fixed deposit for a period of three years in UCO Bank, Delhi High Court Branch, New Delhi. Rest of the amount

along with interest shall be released to her immediately on deposit.

10. The Appeal is allowed in above terms. No costs.