

**(1982) 09 DEL CK 0048**

**In the Delhi High Court**

Delhi Transport Corporation

APPELLANT

Vs

Harbans Kaur and Others

RESPONDENT

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**Date of Decision :** 24-09-1982

**Acts Referred:**

**Citation :** (1984) 1 ACC 415

**Hon'ble Judges :** Sultan Singh, J

**Bench :** Single Bench

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## **Judgement**

Sultan Singh, J.—On an application filed on 8th June, 1973 u/s 110A of the Motor Vehicles Act, 1939 (hereinafter called "the Act") the Motor Accident Claims Tribunal, Delhi by his judgment dated 8th August, 1980 awarded a sum of Rs. 25,920/- with interest @ 6% per annum from the date of filing application till realisation besides costs as compensation, to the heirs i.e. widow, parents, sons and daughters (respondents 1 and 4 to 10) of the deceased Jaswant Singh against the Delhi Transport Corporation (appellant) and the driver Kewal Krishan (respondent No. 11). Jaswant Singh was knocked down by a D.T.C. bus driven by respondent No. 11 and owned by the appellant on 3rd March, 1973 at 9 P.M. He died on 4th March, 1973 at 6.30 A.M. He was aged 44 years at the time of accident, his date of birth being 6th January, 1929. He was Vehicle Mechanic in 505 Army Base Work-shop, EME, Delhi Cantt. under the Ministry of defense, Government of India, New Delhi. The Tribunal held that the accident in question had taken place due to rash and negligent driving of the offending Bus No. 1573 by Kewal Krishan, Driver and the deceased was not at fault in any way, that respondents 1 to 10 were the heirs and legal representatives of the deceased. The Tribunal held that the age of retirement of the deceased was 60 years and he was drawing Rs. 407.25 per month as salary etc. at the time of his death; Rs. 150/- per month was determined as financial dependency of the heirs for a period of 16 years but 10% was deducted on account of lump sum payment and contingencies of life. No deduction was however made on account of gratuity, family pension or death benefit received by the widow from the employers of the deceased. The dependency of respondents 2 and 3 was treated as nil and the

compensation amount was distributed amongst respondents 1, 4 to 10 in the ratio of 22: 7: 7: 10: 11: 15: 10: 8 considering their ages.

2. In this appeal, the appellant prays for dismissal of the claim application filed by the heirs of the deceased. The heirs on the contrary filed cross-objections (CM. No. 1592 of 1982) under Order 41 Rule 22 of the CPC for enhancement of compensation to Rs. 3,84,880/- with costs and interest @ 12% per annum from the date of filing of the applications till realisation.

3. The heirs of the deceased have alleged that on 3rd March, 1973 at about 9 P.M. Jaswant Singh deceased was crossing the Patel Road when the offending D.T.C. bus No. DLP-1573 driver (respondent No. 11) in due course of his employment under the appellant coming from East Patel Nagar side knocked down the deceased and his compensation with its front side, without keeping proper look out and without caring for the safety of the road users, that the road around the place of accident was straight and the driver could have easily noticed the deceased and his companion from safe distance, that he ought to have slowed down the bus to avoid the accident, that he was entirely responsible for causing fatal injuries to the deceased, that the deceased had become unconscious at the spot and was removed in the same state to the hospital where he succumbed to his injuries later on. It has further been alleged that the deceased possessed good physique and had he not been killed in the accident he would have lived up to the age of 80 years, and continued to earn up to the age of 75 years, that he was the only bread earner and hope for the heirs, that there is a history of longevity of life in his family, that his father is aged 70 years and uncle is aged 78 years, that the deceased was an expert motor mechanic having an experience of 24 years, that after retirement he was to start his own motor workshop and his income from that business would have been Rs. 2000/- to Rs. 3000/- per month, that the heirs have been deprived of financial support for a period of 35 years, that the children are unmarried that the deceased would have spent his earnings on the marriage of each child besides spending on their maintenance and education.

4. The driver was proceeded ex-parte. The appellant in his written statement has denied every fact except factum of accident. The appellant has further pleaded that the conductor gave a bell to the driver to stop the bus, at the East Patel Nagar Bus Stand, that the road was highly congested, and Therefore it could not be said that the bus was driven at a high speed, that the driver noticed the deceased along with another person crossing from the left side of the road, that the driver was driving on the correct side of the road at slow speed, that the deceased and his companion retraced their steps on seeing the other vehicles coming from Shadipur Depot, that the accident became inevitable in spite of the fact that the driver swerved the bus to the left and applied the brakes immediately, that the bus stopped then and there.

5. The appellant has not produced any evidence to prove that accident was inevitable or to disprove rash and negligent driving. Neither the driver nor the

conductor of the offending bus has appeared as a witness. R.W. 1 Tilak Raj, Traffic Superintendent of D.T.C. deposed that the services of the driver Kewal Krishan (respondent No. 11) were terminated from 21st November, 1973 and his where about were not known. R.W. 2 P.J. Mathai is a clerk from Army Base Workshop Delhi Cantt. where the deceased was employed. He placed on record Ex. 2/1 a letter dated 11th October, 1979 addressed to the Tribunal. This is the only evidence on behalf of the owner and driver of the offending vehicle. In the absence of evidence on behalf of the appellant it has to be seen whether the heirs have successfully proved that the accident took place due to rash and negligent driving by respondent No. 11.

6. Rajinder Nath, P.W. 9 and Din Dayal P.W. 12 are the two eye witnesses Rajinder Nath has deposed that he and Jaswant Singh deceased had come from Connaught Place to East Patel Nagar, and after getting down at the bus stand they were crossing Patel Road when a D.T.U. bus coming from Pusa Road side hit them; that both fell down and became unconscious, that they had crossed about half of the road when they were hit by the bus, that the accident took place at about 9 P.M. that he was also injured on his head and had fractured his collar bone besides injuries on his ear, that he regained consciousness after three days, that he did not hear any horn of the bus, that he had not seen the bus before the accident, that when they had started crossing the road the bus was not visible to them. In cross-examination he had deposed that they had boarded the bus Route No. 22 from Curzon Road bus stop, he did not remember whether the bus was of single door, or double door that the bus stopped at the specified place.

7. Din Dayal P.W. 12 another eye witness has deposed that he had witnessed the accident in Patel Nagar on or about 3rd March, 1973 at 9 P.M. between the bus and the two persons one of whom was a sikh gentleman, that the bus was coming from Rajinder Nagar at a fast speed and the front right portion of the bus struck the sikh gentleman and the other person, that both fell down and the bus stopped after covering 2 to 4 paces after the accident that the number of the bus was DLP 1573, that the persons, who were injured had got down earlier from another bus and were crossing the road, that they had crossed about half the road when the accident took place. In cross-examination he has deposed that he got down at the bus stop of East Patel Nagar Gole Chakar on Patel Road, that the traffic was running upward and downward, there was only white line dividing the road into two parts, that he was going to his residence and was waiting at the bus stop opposite to that of the bus stop where the accident took place; that the road might be 40 to 50 feet wide, that there were 15 to 20 persons, that he was residing at 11/25, East Patel Nagar, New Delhi, that there was heavy flow of traffic on the road upward and downward and many pedestrians were also coming and going and there was no pedestrian crossing at that time, that he did not see the bus coming from Shadipur Depot, that he heard the application of the brakes of the bus and his attention was diverted, he saw two persons having fallen down five or six paces ahead of the bus, that people ran towards the site of accident and he also ran with them and remained there for about 10 to 15

minutes and thereafter went to his residence, that the police had not reached the spot in his presence, that his statement was not recorded either by the police or in the criminal court, that Kartar Singh a relation of Harbans Kaur respondent served him with a summons. He decided the suggestion that the deceased retraced his steps and the accident was due to his own negligence. He also denied the suggestion that he was not present at the spot and was deposing falsely.

8. The appellant has not put its version of the accident as pleaded in the written statement to any of the two eye witnesses. The Tribunal has relied upon these witnesses and there is no reason to doubt their statements, especially in the circumstances that neither the driver nor the conductor of the offending bus has been produced as a witness. The factum of accident is not denied. From the statements of these witnesses it is clear that the deceased and his companion P.W. 9 were in the centre of the road and were hit by the bus. The hitting of the pedestrian in the centre of the road as in itself evidence of rash and negligence act on the part of the driver. The driver ought to have noticed the pedestrians crossing the congested road and ought to have stopped the bus well within time to avoid the accident. The pedestrians cannot be made responsible or cannot be said to be negligent unless they started crossing the road suddenly. Learned Counsel for the appellant submits that the deceased and his companion retraced their steps for the centre of the road after noticing the traffic coming from the opposite direction as they were not in a position to cross the remaining half portion of the road. As already stated, there is no evidence in any form whatsoever that the deceased or no evidence on behalf of the appellant and there is his companion retraced their steps. The companion of the deceased is P.W. 9 but no such suggestion was put to him. As regards, Din Dayal, the learned Counsel for the appellant submits that his statement was not recorded at the spot by the police, he did not appear as a witness in the criminal court and Therefore he should not be believed. Further counsel submits that the witness or the heirs of the deceased have not explained how the witness was contacted to appear and deposed about the accident. The statement of Din Dayal P.W. 12, it is true, was not recorded by the police at the spot and he was not examined in the criminal case. This circumstance however is not sufficient to disbelieve Din Dayal P.W. 12. It is common knowledge that public men do not want to involve themselves in any investigation. If there is an accident, public men do not like to come forward or to take part in investigation. The appellant could have clarified from Din Dayal in cross-examination whether he was present at the site and how he happened to appear as a witness in the case, but no attempt was made, in *Delhi Transport Undertaking v. Kumari Lalita* (1972) D.L.T.8 188, it has been held that failure of the witness to wait till the arrival of the police to make a statement was not a good ground for disbelieving his presence at the site.

9. Learned Counsel for the appellant submits that according to Raghbir Singh, Sub-Inspector P.W. the bus was on its correct side and had not gone on the wrong side and Therefore it must be held that the driver was not negligent. It is

true that the bus was on its correct side but it had hit the deceased and his companion in the centre of the congested road. The driver ought to have control over the bus while driving on congested road. The driver's seat is on the right side of the bus and its right front portion knocked deceased and his companion in the centre of the road. He must have noticed them but could not stop. Ram Kishan P.W. 11 inspected the bus after accident. The recovery memo is P.W. 11/2. According to the recovery memo, and statement of P.W. 11 there was dent on the right front side of the bus and the right head light glass was broken. Impact between the right side of the bus and the deceased caused this dent on the bus. The dent after this accident obviously tells that bus was going at a very fast speed when a person is knocked by a D.T.C. bus, on a congested road and the impact causes dent on the bus, it must be presumed that the driver was not in full control of the bus, that the bus was moving very fast and the driver was rash and negligent.

10. Counsel for the appellant submits that driver was acquitted in the criminal case. This is no ground to hold in civil case that he was not negligent. In *N.K.V. Bros. (P) Ltd. Vs. M. Karumai Ammal and Others*, it has been held that the plea that the criminal case ended in acquittal has no bearing to reject the application for compensation under the Act.

11. In *Ishwar Devi v. Reoti Raman and Anr.* 1978 A.C.J. 340 the driver had seen the pedestrian crossing the road from one footpath to another and the driver could have with little care averted the accident. It was held that the driver was negligent. In the instant case it has been pleaded in the written statement that the driver noticed the deceased along with another person coming from the left of the bus. In these circumstances the driver (respondent No. 11) ought to have stopped the bus when the deceased and his companion were in the centre of the road and were not in a position to cross the remaining half road on account of vehicles approaching from the opposite direction. In *Baldevji Bhathiji Thakore Vs. State of Gujarat*, it has been held that the driver did not make any attempt to save the deceased by swerving to the other side when there was sufficient space. In the instant case, it appears that there was sufficient space for the driver to avoid the accident. Left side of the road was 20 or 25 feet wide. The driver could have avoided the accident by swerving the bus to extreme left of the road. In *Subash Chander v. Ram Singh and Ors.* 1972 A.C.J. 51 it has been held that ordinarily the burden of proving negligence is on the person who alleges but in the circumstances of a particular case which speak for themselves and show negligence on the part of the driver of a vehicle, it is the duty of the driver of the vehicle to disprove negligence. In *Shakuntla Shridhar Shetty v. State of Maharashtra* 1976 A.C.J. 68 it has been held that the onus to prove inevitable accident is on the driver. Thus I am of the opinion that if there is a plea of inevitable accident as is in the instant case the onus was on the appellant to prove that the driver was not negligent. In *Delhi Transport Undertaking and Another Vs. Raj Kumari and Others*, it has been held that a prudent driver ought to drive at a reasonable speed as in evidence that the place of accident was

congested area. In General Manager, Bangalore Transport Service Vs. V.N. Narasimhiah and Others, it has been held that as between the cyclist and the bus driver the latter's responsibility is greater. Similarly I am of the view that as between the bus driver and the pedestrian the responsibility of the former is greater to avoid the accident specially when the driver has noticed the pedestrian in the centre of the road. I have, Therefore, no doubt that the accident was due to rash and negligent driving of respondent No. 11 and the deceased was not at fault.

12. The next question is what should be the amount of compensation payable to the heirs of the deceased. The heirs have claimed a sum of Rs. 3,84,880/-as follows:

(a)

Salary which the deceased would have earned till the age of 60 years.

1,04,880.00

(b)

Loss of support for 15 years after retirement

1,80,000.00

(c)

For pain, suffering and shock of hearing about the death of S. Jaswant Singh.

1,00,000.00

Total:

3,84,880.00

The Tribunal has determined the compensation by adopting the multiplier of sixteen which obviously means that the deceased would have served in Government Service for another 16 years and Therefore the Tribunal thought that the loss of pay and allowances which the deceased would have earned was the pecuniary loss to the heirs after excluding the amount which the deceased would have spent upon himself. The Tribunal calculated pecuniary loss to the heirs @ Rs. 150/-per month. The general principle is that the pecuniary loss can be ascertained only by balancing on the one hand the loss of the claimants of the future pecuniary benefit and on the other any pecuniary advantage which from whatever source comes to them by reason of the death, that is the balance of loss and gain to a dependant by the death must be ascertained (See Gobald Motor Service Ltd. and Anr. v. R.M.K. Veluswami and Ors. 1962 S.C. 1).

13. There is un rebutted evidence that the deceased possessed good physique at the time of accident. His father appeared as P.W. 8 in August, 1975 and deposed that he was of 70 years. His uncle appeared as P.W. 7 and deposed that he was

of 80 years. This shows that there is a history of longevity in the family of the deceased. It can Therefore be easily held that, but for this accident the deceased would have lived up to the age of 75.

14. In Government service the deceased would have retired at the age of 60 years i.e. in January, 1989. He was a vehicle mechanic and after retirement either he would have established his own workshop as alleged by heirs or joined some other workshop as a mechanic. Considering his physique and longevity of life in the family I estimate that he would have been in a position to work as a motor mechanic after retirement for another period of ten years at least. In other words he would have remained active up to the age of 70 years. Sant Lal Bhatia P.W. 5 a clerk from the Army Base Work-shop has deposed that the basic pay of the deceased was Rs. 350/- and he was also getting house rent allowance Rs. 37.35 and City Compensatory Allowance Rs. 19.90 total Rs. 407.25. He has also deposed that Rs. 350/- was the maximum of the scale of pay, in which the deceased was drawing his salary. He has also produced a statement showing the terminal benefits which would have been paid to the deceased wherein it is" stated that the deceased would have drawn Rs. 77,332.50 as the amount of pay from the date of his death till retirement i.e. for a period of 15 years and 10 months. This amount appears to be correct if the deceased had continued to draw at Rs. 407.25 per month. This amount includes only basic pay, house rent allowance and City Compensatory allowance. The witness has further deposed that the deceased would have drawn a sum of Rs. 108/- per month as dearness allowance had he been alive. The statement; was made in August, 1975. It is common knowledge that the scales of pay of the Government servants were revised by the Third Pay Commission. It is also common knowledge that rates of dearness allowance have been sanctioned and enhanced from time to time. In March, 1982 an announcement was made in the Parliament raising the rates of dearness allowance payable to the Central Government employees. According to the Office Memorandum No. 13017/6/81-EII(B) dated 23rd March, 1982 of the Ministry of Finance, Government of India, New Delhi an employee drawing salary above Rs. 300/- and up to Rs. 400/- is entitled to dearness allowance of Rs. 62/- plus 60 per cent of the pay with effect from 1st January, 1982. The pay of the deceased was Rs. 350/- per month being the maximum of the scale of pay drawn by him. Thus he would have drawn Rs. 272/- per month with effect from 1st January, 1982, as dearness allowance. The total amount which the deceased would have drawn from Government service and earned after retirement may be calculated as follows:

(a)

Amount he would have withdrawn till retirement.

Rs. 77,332.00

(b)

D. A. @ Rs. 108/- per month from January, 1975 to December 1981.

Rs. 9,072.00

(c)

D.A. from January, 1982 to January, 1989 @ Rs. 272/-per month,

Rs. 23,120.00

(d)

Earnings for a period of 10 years after retirement @ Rs. 700/-per month.

Rs. 84,000.00

Total:

Rs. 1,93,524.00

The income after retirement has been taken at Rs. 700/- per month considering that he would have been entitled to Rs. 672/- per month on account of his pay and dearness allowance at the present rate and after retirement he would have been in a position to earn at least Rs. 700/- per month. The heirs have claimed that the deceased would have established a workshop and earned a sum of Rs. 2000/-to Rs. 3000/-per month. The Tribunal has rejected the entire claim on account of his earnings after retirement. The deceased being a vehicle mechanic could have earned at least what he was earning by serving the Army Base Workshop under the Ministry of defense. He may not have established a workshop to earn Rs. 2000/- or more but I am of the opinion that he would have been in a position to earn Rs. 700/-per month by working privately: In this estimate it is not possible to include all rates of D.A. which may be increased from time to time till retirement in 1989. Similarly it is not possible to determine the arrears of dearness allowance over and above Rs. 108/- per month during the period 1975 to 1981. Calculation of compensation is a very difficult task. It is only a rough estimate. The amount of Rs. 1,93,524/-as detailed above is only a rough estimate on the lower side which the deceased would have earned from the employment with the Government of India and his job after retirement as a vehicle mechanic up to the age of 70 years.

15. His family consisted of himself, widow, three daughters and four sons besides his aged parents. His sons and daughters were minors. It does not appear that the deceased was not a responsible person. He was providing bread and butter to all his sons and daughters besides the widow. It is in evidence that the father of the deceased was working on lathe machines at the time he appeared as a witness in August, 1975. Thus the deceased was to maintain himself, his wife and seven minor children. The Tribunal has observed that the deceased was paying Rs. 129/- per month as rent of the premises under his tenancy. But this appears to be a misreading of the statement of the widow of the deceased. She has deposed that he was paying rent at Rs. 12/- per month. Taking into consideration the number of family member it would be just and proper to hold that out of total earnings, the deceased was spending only 20 per cent on

himself and the balance on his seven children and the widow. Out of the said sum of Rs. 1,93,524/- a sum of Rs. 1,54,819 being 80% of total earnings is determined as the amount of pecuniary loss to the heirs of the deceased. The Tribunal has held that respondents 2 and 3 were not entitled to any compensation. There is no reason for it. All the heirs who were dependant upon the deceased are entitled to share the compensation. The Tribunal has further distributed the amount of compensation to various heirs in different ratio. The heirs have not claimed any distribution. Learned Counsel for the heirs submits that the entire compensation be made payable to all the heirs jointly. Besides pecuniary loss the claimants-heirs of the deceased are entitled to general damages for pain and suffering on account of the death of their near and dear one which I estimate at Rs. 5000/- in all. The heirs are Therefore entitled to Rs. 1,59,919/- say Rs. 1,60,000/- as compensation on account of the death caused by the aforesaid accident. The Supreme Court in *Concord of India Insurance Co. Ltd. v. Nirmala Devi and Ors.* 1980 ACJ 55 has observed that the determination of compensation must be liberal in accident cases.

16. Learned Counsel for the appellant relies upon *Madhya Pradesh State Road Transport Corporation, Bairagarh, Bhopal v. Sudhakar and Ors.* 1977 A.C.J. 290 to canvass for the reduction of the compensation amount. That was a case of the death of a wife aged 23 years. The husband was not dependent upon the earning of his wife as he himself was independently earning. The husband had remarried after 11 months of the accident. She was expected to be in service for a period of 30 years but a multiplier of 20 was adopted. Her salary was Rs. 190/- per month. The facts of that case are entirely different from the facts of the present case.

17. In *C.K. Subramonla Iyer and Ors. v. T. Kunhikuttan Nair and Ors.* AIR 1970, 376 the following observation has been made:

There can be no exact uniform rule for measuring the value of the human life and the measure of damages cannot be arrived at by precise mathematical calculations but the amount recoverable depends on the particular facts and circumstances of each case. The life expectancy of the deceased or of the beneficiaries whichever is shorter is an important factor. Since the elements which go to make-up the value of the life of the deceased to the designated beneficiaries are necessarily personal to each case, in the very nature of things, there can be no exact or uniform rule for measuring the value of human life.

18. In the instant case the life expectancy has been taken at 75 but the deceased would have been in a position to earn for himself and his family members up to the age of 70 considering the history of longevity in the family.

19. The next question is what amount, if any, should be deducted out of the said compensation? Learned Counsel for the appellant submits that the widow has received pension and other benefits. In *Bhagwati Devi and Ors. v. Ish Kumar and Ors.* 1975 A.C.J. 56 H.L. Anand, J. of this Court considered the question in great

detail after referring to the various authorities and concluded that no deduction should be made from the compensation on account of gratuity, pension, provident fund and insurance. These benefits cannot be considered as death benefits but these were the benefits which the legal representative were entitled even otherwise on the retirement of the deceased. I am Therefore of the view that no deduction of any amount should be made from the compensation. An appeal from the said judgment of H.L. Anand. J. was filed but the same was dismissed by the Division Bench on 28th October, 1980 (See: Ish Kumar and Ors. v. Bhagwati Devi and Ors. 1982 A.C.J. 183). No deduction was made in Prem Singh and Ors. v. Tika Ram and Ors. 1967 A.C.J. 243, Municipal Corporation of Delhi and Ors. v. Shanti Devi Dutt and Anr. 1975 A.C.J. 508, Delhi Transport Corporation and Anr. v. Pushpa Chopra and Ors. 1981 A.C.J. 203, Mohinder Kaur and Ors. v. Manphool Singh and Ors. 1981 A.C.J. 231 and Avon Delux Transport Co. v. Sheelatha Selvamani and Ors., 21(1982) D.L.T. 318. These are judgments by the various Division Benches of this Court. Further I am of the view that there is general price rise on account of inflation. It is not possible to determine exactly what the deceased would have earned, had he been alive. All these calculations as observed in various authorities are only rough estimates. In fact the amount of compensation is no consolation to the heirs of the deceased. All his children are minors and unmarried.

20. Lastly the question is about the interest. The Tribunal has awarded interest @ 6/- per annum. This is not a reasonable rate of interest, considering the bank rate since the date of accident. The accident took place in March, 1973 and not a single penny has been paid to the heirs so far. It is not known how they have been maintaining themselves after the death of their only bread-earner. Section HOC of the Act provides for the award of interest at such rate of for such period as the court may specify. Considering the facts of this case and the existing bank rate of interest I am of the view that interest @ 9% per annum from the date of filing of the compensation application till realisation would be just and proper.

21. Learned Counsel for the heirs-claimants has further argued that amount of compensation awarded by the Tribunal was deposited by the appellant but this Court had not allowed payment to the heirs. His submission is that the heirs are entitled to interest on the entire amount that may be awarded as compensation irrespective of the fact that some amount has already been deposited by the appellant. He further submits that the deposit made by the appellant was not unconditional and Therefore there is no question of the stoppage of interest after the deposit. Rules 1 to 3 of Order 24 of the CPC are as under:

1. The defendant in any suit to recover a debt or damages may, at any stage of the suit, deposit in court such sum of money as he considers a satisfaction in full of the claim.
2. Notice of the deposit shall be given through the court by the defendant to the plaintiff and the amount of the deposit shall (unless the court otherwise directs) be paid to the plaintiff on his application.

3. No interest shall be allowed to the plaintiff on any sum by the defendant from the date of the receipt of such notice, whether the sum deposited is in full of the claim or falls short thereof.

He submits that these provisions are not applicable to the facts of the present case. The appellant after filing the appeal got a stay order on deposit of the amount. It appears that the appellant deposited the amount awarded by the Tribunal but he had prayed that the money may be paid to the heirs of the deceased on their furnishing bank guarantee for restitution. Learned Counsel for the heirs submits that the deposit being a conditional deposit and not in terms of Order 21 Rule 1 of the Code there is no question of stoppage of payment of interest. He refers to P.S.L. Ramanathan Chettiar and Others Vs. O. Rm. P. Rm. Ramanathan Chettiar, wherein the following observations has been made:

The last contention raised on behalf of the respondent was that at any rate the decree-holder cannot claim any amount by way of interest after the deposit of the money in court. There is no substance in this point because the deposit in this case was not unconditional and the decree-holder was not free to withdraw it whenever he liked even before the disposal of the appeal. In case he wanted to do so, he had to give security in terms of the order. The deposit was not in terms of Order 21 Rule 1 C.P.C. and as such there is no question of the stoppage of interest after the deposit.

22. Thus I am of the view that the heirs respondents Nos. 1 to 10 would be entitled to interest @ 9% per annum on the entire amount awarded including amount already deposited by the appellant towards compensation.

23. The appeal of the Delhi Transport Corporation is, Therefore, dismissed. Cross-objections (CM. No. 1591 of 1982) filed by the claimants respondents 1 to 10 are accepted. The amount of compensation payable to respondents No. 1 to 10 is enhanced to Rs. 1,60,000/- with costs and interest @ 9% per annum from the date of filing of the application for compensation u/s 110A of the Act till realisation against the appellant and respondent No. 11. Counsel fee Rs. 500/-.