

(1993) 09 DEL CK 0043

In the Delhi High Court

Case No : First Appeal No. 110 of 1983

Delhi Transport Corporation

APPELLANT

Vs

Ved Wati and Others

RESPONDENT

Date of Decision : 13-09-1993

Acts Referred:

Motor Vehicles Act, 1939 — Section 110A

Citation : (1993) 2 ACC 577 : (1993) ACJ 1249 : (1993) 3 AD 817 : (1993) 52 DLT 1 : (1993) 27 DRJ 279

Hon'ble Judges : V.B. Bansal, J

Bench : Single Bench

Advocate : J.N. Aggarwal and O.P. Goyal, for the Appellant;

Judgement

V.B. Bansal, J.

(1) By this judgment, I will dispose of F.A.O. 1 10/83, Delhi Transport Corporation Versus Smt. Ved Wati & Others and F.A.O. 136/83, Smt. Ved Wati & Others versus Chattar Sain & Others, since they arise out of the same judgment dated 20.2.1983 of Shri O.P. Dwivedi, Judge, Motor Accident Claims Tribunal, Delhi, and so can be disposed of together conveniently.

(2) Smt. Ved Wati and others have prayed for the enhancement of the compensation, awarded by the learned Judge Motor Accident Claims Tribunal to Rs.6,62,000.00 , and to enhance the rate of interest to 12% from 9%, allowed by the Tribunal. Delhi Transport Corporation has, on the other hand, prayed that the appeal be accepted and the judgment and award in question be set aside.

(3) Dr. Narender Kumar, a resident of House No. 3398, Gali Peepal Mahadev, Hauz Kazi, Delhi, was employed as a Homeopath in the Municipal Corporation of Delhi and was drawing a salary of Rs.1604.40 paise per month. He was born on 3.5.1938 and was due for retirement on 31.5.1996.

(4) On 29.2.1980, at about 1.40 p.m., he was present near old Delhi Railway Station, opposite Delhi Public Library. He boarded a DTC bus No. DLP-642, plying

on route No. 225, which was driven by Dharam Singh, driver. At that very moment, another Dtc bus bearing No. DLP-917, driven by Chattar Sain, driver came from behind and was stopped by the driver. The bus DLP-917 moved ahead on the left hand side of Bus No. DLP-642 and struck against Dr. Narender Kumar, who was at that time, standing on the footboard of bus DLP-642, on account of which. Dr. Narender Kumar sustained crush injury and died instantaneously at the spot. The drivers of both the buses were negligent and Chattar Sain moved ahead the bus without blowing any horn and without keeping proper look out for the traffic on the road or otherwise. The driver of bus No. DLP-642 was alleged to be also negligent inasmuch as he parked and stopped the bus in a situation so as to enable the bus no. DLP-917 to hit the alighting passengers.

(5) Information was given to the police upon which, S.I. Sumer Singh came to the spot and took proceedings. He had recorded the statement of Krishan Kumar, which was sent to police station Kotwali, upon which, F.LR.No.337 of 1980 was recorded. Bus No. DLP-642 was found parked at the spot while the other bus DLP-917 was also brought at the spot, and both the buses were seized. Both the buses were got mechanically inspected when blood stains were found on the left hand side last panel near the rear foot board of bus No. DLP-642 and on the back right portion of the bus No. DLP-917. Inquest proceedings were taken and dead body was sent for post mortem proceedings, which were conducted by Dr. L.T. Ramani, who opined that injuries could be caused by a road vehicular accident and the death was due to coma resulting from head injury.

(6) Dr. Narender Kumar left behind his wife Smt. Ved Wati, three daughters Ms. Kalpana, Ms. Hirdesh, Ms. Seema and two sons Master Pankaj and Master Mona.

(7) Smt. Ved Wati and her children filed an application u/s 110-A of the Motor Vehicle Act (hereinafter referred to as "the Act") before the Motor Accident Claims Tribunal, claiming a sum of Rs.6,66,000.00 along with interest. It was pleaded that the deceased was drawing a salary of Rs. 1604.40 paise at the time of his death and was aged 42 years. It was also claimed that he was to remain in service for another period of sixteen years and would have earned a sum of Rs.96,000.00 . It was also pleaded that he was due for promotion after five years and after such period, he was to draw a sum of Rs.2,000.00 as salary and thus, the loss of salary suffered for this period of 11 years, would be Rs.2,64,000.00 . It was further pleaded that the deceased was enjoying very good health and expected to live up to the age of 75 years on account of longevity of life in the family and being a doctor by profession, he would have earned another sum of Rs.2,00,000.00 during the remaining span of his life. Another sum of Rs. 1,00,000.00 is claimed for loss of love and affection and care, which they would have got from the deceased and that the petitioners being the widow and children of the deceased, are entitled to receive the compensation. It was also pleaded that the father of the deceased, aged about 78 years, was enjoying good health and, thus, this claim. It was also pleaded that respondents No. 1 and 2 were the employees of the respondent No.3 and so

all of them were liable to pay the amount of compensation.

(8) The petition was contested by the respondents, who had filed a joint reply pleading that Chattar Sain was the driver of Dtc bus No. DLP-917, while Dharam Singh was driver of Dtc bus No. DLP-642, at the time of this occurrence, but it was claimed that they were neither rash nor negligent and that the accident did not take place on account of their rash or negligent act. It was also pleaded that on 29.2.1980, bus DLP-642 was proceeding from Old Delhi Railway Station towards Kauria Bridge and at about 1.40 p.m., all the passengers had boarded the bus, when the conductor gave a signal and the driver had just started the bus and was in the process of over-taking bus DLP-917 on route No. Ii, two persons tried to board the moving bus but could not catch hold of the rod and fell down and hit against the rear side of bus No. DLP-917, which was also moving at that time. It was also claimed that the driver of bus No. DLP-624, while over-taking bus no. DLP-917, had left sufficient margin in between the two buses and the deceased had himself brought hazard resulting in his death. It was also claimed that the loss, if any, suffered by the petitioner was not on account of rash and negligent driving of the bus on the part of the bus driver. It was also denied that there was longevity of life in the family of the deceased. The further plea was, that the petitioners were not entitled to any compensation at all not to speak of the amount of Rs.6,62,000.00 and so prayed that the petition be dismissed with costs.

(9) From the pleadings of the parties, the following issues were framed on 28.5.1981:-

1. Whether Narender Kumar deceased received fatal injuries in accident on 29.2.1980 caused due to rash/negligent act of driving of bus No. DLP-642 on the part of respondent No. 2 or on the part of respondent No. 1 - driver of bus No. DLP-917, or both ? 2. Whether the petitioners are the L.Rs. of the deceased ? 3. To what amount of compensation, if any, are the petitioners entitled and from whom ? 4. Whether the accident was caused due to negligence of the deceased? 5. Relief.

(10) In support of their claim, Smt. Ved Wati and others examined 12 witnesses viz. P.W.1 Ram Saroop, Public Witness .2 Jai Narain, Public Witness .3 Vijendra Kumar, Public Witness .4 Sumer Singh S.I., P.W.5 P.R. Maurya, Public Witness .6 Smt. Ved Wati, Public Witness .7 K.L. Verma, Public Witness .8 Shyam Sunder, Public Witness .9 Dr. L.T. Ramani, Public Witness . 10 Kailash Chand, Public Witness . 11 Dhirendra Kumar and Public Witness .12 Narinder Kaushik. Chattar Sain, respondent No. 1 appeared as R.W. 1 while Dharam Singh, respondent No.2 appeared as R.W.2. The respondents have also examined Roop Chand, conductor of bus No. DLP-642 as R.W.3. The learned Judge, Motor Accident Claims Tribunal, after hearing arguments of learned counsel for the parties, made the award dated 28.2.1983.

(11) I have heard Shri O.P. Goyal, learned counsel for the claimants/legal heirs of

Dr. Narender Kumar and Mr. J.N. Aggarwal, learned counsel for Delhi Transport Corporation and have also carefully gone through the record.

(12) On the basis of the statement of Smt. Ved Wati, Public Witness .6, the learned Tribunal has decided that Smt. Ved Wati is the wife and Kalpana, Hirdesh, Seema, Pankaj and Mona are the daughters and sons of late Dr. Narender Kumar. Learned counsel for the Delhi Transport Corporation has submitted that this finding of the learned Tribunal is not being contested.

(13) Mr. J.N. Aggarwal submitted that the learned Tribunal has erroneously concluded that the accident took place on account of the rash and negligent driving of the Dtc buses by Dharam Singh and Chattar Sain. He has further submitted that Dr. Narender Kumar, deceased, in fact, was negligent and responsible for the accident, inasmuch as he made attempt to board moving Dtc bus No. DLP-642, but was unable to catch hold of the rod and fell down on account of which he sustained injuries. He has further submitted that there was no rash or negligent act on the part of either Dharam Singh or Chattar Sain and that there was sufficient space in between the two buses. He has, thus, prayed that the finding of the learned Tribunal, holding the two drivers to be rash and negligent, resulting in the death of Dr. Narender Kumar, be set aside.

(14) Learned counsel for the claimants has, on the other hand, submitted that the learned Tribunal has based its findings on cogent and reliable evidence, brought on record, which has provided beyond any show of doubt, that in fact the deceased had already boarded the bus and was on the foot board, when the two buses moved side by side and the deceased was crushed in between the two buses. He has, thus, submitted that the learned Tribunal has correctly decided that the accident took place on account of the rash and negligent driving of the buses by the two drivers and there was no contributory negligence on the part of the deceased.

(15) I have carefully gone through the evidence on record and am of the considered view that the conclusion arrived at by the learned Tribunal is based on facts, proved by the claimants and the finding has to be confirmed. In the instant case, Public Witness .8 Shyam Sunder, P.W.10 Kailash Chand, Public Witness . 11 Dharendra Kumar and Public Witness .I 2 Narinder Kaushik are the eye witnesses of the occurrence. It is pertinent to note that in the joint written statement filed by the Dtc and the two drivers before the Tribunal, their stand was that Dtc bus No. DLP-917 was already parked ahead of bus no. DLP-642 and that Dharam Singh had just started the bus No. DLP-642, after giving of signal by the conductor and was in the process of over-taking bus No. DLP-917, when two persons tried to board the bus, who could not catch hold the rod and fell down and hit against the rear side of bus No. DLP-917, which was also moving at that time. It is, thus, clear that the presence of both the buses at the place of occurrence is not disputed. Shyam Sunder, Public Witness .8 has claimed that he was proceeding towards Kauria Bridge, coming from Fateh Puri side and had seen two buses standing at the bus stand near Delhi Main Railway Station and that

both the buses started after picking up the passengers and that the bus standing on the left side tried to over take the other bus in which, the deceased was traveling on footboard, who had not yet fully boarded the bus and the bus trying to over take from the left side, came parallel and close to the other bus, on account of which, the man on foot board was crushed and sustained injuries, resulting in his death.

(16) According to Kailash Chand, Public Witness . 10, he was standing at the bus stand, opposite Delhi Main Railway Station at about 1.30 p.m. for going to Gandhi Nagar and wanted to board bus route No.225, when another passenger boarded the bus and when this bus started moving, another bus came and went ahead, grazing bus of route No.225 on its left side, on account of which, the deceased traveling on the foot board, received injuries on his head and fell down. According to Dhirendra Kumar, Public Witness .I I, he was present at the spot when bus DLP-642 came from Fateh Puri side and after picking up some passengers, started moving and in the mean time, another bus came from Fateh Puri side and went on the wrong side grazing the bus plying on route No.225 on its left side, as a result of which, one passenger who had boarded the bus route No. 225 and was on the footboard, received injuries on his head and fell down. According to Narindra Kaushik, Public Witness . 12, it was driver of bus No. DLP-642 who tried to move ahead of the other bus, standing on its left and it was in that process that the deceased sustained injuries. According to him, he bus No. DLP-642 had hit the right back portion of the other bus. There is no doubt that the statement of Narendra Kaushik, Public Witness . 12 is in contradiction to the testimonies of other three eye witnesses and this statement is in conformity with the stand of Delhi Transport Corporation in the written statement. However, from a scrutiny of these statements as a whole, it is abundantly clear that the deceased had already boarded the bus No. DLP-642 and was still on the foot board when the bus on the left side of this bus moved grazing the right side of this bus, on account of which, he received crush injuries, resulting in his death. This version finds corroboration from the inspection report Ex.P-1 in respect of bus No. DLP-917 and Ex. P-2 in respect of bus No. DLP-642, which were inspected by Shri Bankey Lal, Foreman of Delhi Transport Corporation. These reports clearly show that fresh damage and blood stains were found on the 7th 8th right side panel of bus No. DLP- 917 and fresh damage and blood stains were found near left rear back near rear foot board of bus No. DLP-642. The very fact that blood was found on the rear right side of bus No.DLP-917 and near the rear foot board of bus No. DLP-642 clearly indicates that the blood could appear at the said places only when the deceased was standing on the foot board when the two buses grazed each other, resulting in crush injuries to Dr. Narendra Kumar, who died at the spot.

(17) Mr. J.N. Aggarwal, learned counsel for Delhi Transport Corporation has submitted that the accident took place on account of contributory negligence of Dr. Narendra Kumar, who tried to board the moving bus. I am afraid, this submission can not be accepted and is not corroborated from the evidence

produced by the claimants. There is no doubt that according to Chattar Sain, R.W.1, he was the driver of bus No. DLP-917 and he had stopped his bus at the Old Delhi Railway Station at about 1.35/1.40 p.m. when some passengers alighted and others were in the process of boarding his bus when he heard that an accident had taken place. He has also claimed that on alighting from the bus, he came to know that two passengers wanted to board the bus No. DLP-642, which was proceeding from Adarsh Nagar to Shahdara and he was not at fault nor the accident took place on account of his default. According to him he had not noticed if there was any blood mark on right side of his bus and denied that the bus DLP-642 had already reached the spot or that the deceased was standing on the foot board of that bus and that that he over took that bus and in that process, caused the accident. This witness can not be believed as he has even denied having noticed blood on the right side of the bus, which is amply proved from the report Ex.P-1.

(18) Dharam Singh, R.W.2, who was driver of bus No. DLP-642 has claimed that after giving of whistle by the conductor, he tried to over take bus No. DLP-917 and that there was a distance of about two to two and a half feet in between the two buses and that on giving of a whistle, he stopped his bus and came to know that a passenger, who was trying to board the running bus struck against the rear right side of the bus DLP-917 and received injuries. He has claimed that he was not at fault. He has denied that it was bus No. DLP-917, which tried to over take his bus from the left hand side and moved ahead causing crush injuries to the deceased.

(19) Roop Chand, R.W.3 was the conductor of bus No. DLP-642 and claimed that the driver of his bus was in the process of over taking the bus No. DLP-917 at about 1.30 p.m. at Old Delhi Railway Station after he had given whistle, leaving a distance of about two and a half feet between that bus and bus No. DLP-917, when two passengers came running and tried to board his bus and that one of the passengers, tried to board the bus, but could not get grip of the handle and fell down, hitting against bus No. DLP-917 and that the bus was stopped after he gave whistle. He has denied that he was making a false statement.

(20) As already referred to, statements of these witnesses stand falsified from the testimonies of the eye witnesses, examined by the claimant, coupled with the mechanical inspection report of the vehicles Ex.P-1 and Px.P-2. If the two buses were at quite distance, there was no question of blood being present near the rear foot board of bus No. DLP-642. Merely because the witnesses examined as eye witnesses were not the witnesses in the criminal case, can, by no stretch of imagination, be a ground to disbelieve their testimonies. Learned trial Judge has given cogent reasons for coming to the conclusion that the accident took place on account of the rash and negligent driving of drivers of the buses of Delhi Transport Corporation and the accident did not take place on account of the negligence of the deceased. The findings of the learned trial Judge on these issues are confirmed.

(21) Shri J.N. Aggarwal, learned counsel for the Delhi Transport Corporation has submitted that the learned trial Judge has erroneously concluded that the deceased would have continued earning up to the age of 65 years and that the multiplier up to the age of 65 has wrongly been applied. He has submitted that the multiplier of 12 should have been the maximum, applied in the present case. Shri O.P.Goyal, learned counsel for the claimants has, on the other hand, submitted that a multiplier could be even to the extent of 40 and the learned trial Judge has not given the compensation as ought to have been given.

(22) It has been stated by Smt. Ved Wati, Public Witness .6, that father of the deceased was alive at the age of 75 years and that keeping in view the longevity in the family this deceased ought to have lived at least up to the age of 70 years. It has also been claimed that he being a doctor, he would have continued practice even after retirement and would have continued earning. As regards the emoluments of the deceased and the calculation with regard to the amount, which he would have got from his employer had he not died, have not been challenged and so the calculations have to be taken as correct. The only question to be considered is as to whether the trial Judge has committed any mistake in applying the multiplier. It would, at this stage, be appropriate to refer to the cases, cited by the learned counsel for the parties.

(23) Oriental Insurance Co. Ltd. Vs. C.D. Malik and Others, is a case, decided by a Single Bench of the Punjab and Haryana High Court. In that case, the deceased was a Superintendent in B&R and 46 years of age at the time of his death. The trial Court applied the multiplier of 12 which was, however, enhanced to 16 by the High Court as it was applied in many other cases, though, it was held that in many cases, the normal life span was 70 years. It was a case in which the learned counsel, who had filed the appeal had died and the claimants did not appear at the time of final hearing, in spite of service of notice on them.

(24) State of Haryana and another versus Shahi Prabha Saxena and others reported as is a case, decided by a Single Bench of this court, in which the deceased was a Junior Account in the Posts and Telegraphs Department and was 39 years of age at the time of his death. The Tribunal had applied a multiplier of 15, but it was held in appeal that he would have retired at the age of 58 years and so the proper multiplier was held to be 20. There was no discussion of claim that he would have earned even after retirement.

(25) National Insurance Co. Ltd. versus M/s. Swaranlata Das and others reported as 1993 SC 1259 is a case relating to the death of one Swapan Das, aged 26 years, who died in an accident on 28.6.1984. The Tribunal applied a multiplier of 20 and awarded a compensation of Rs.72,000.00 which was enhanced to Rs.1,50,000.00 by the High Court, taking the life expectancy as 65. It was held p73 that the appropriate method of assessment of compensation was the method of capitalisation of net income choosing a multiplier appropriate to the age of the deceased or the age of the dependants whichever multiplier is lower. Considering all the facts, a multiplier of 15 was applied.

(26) Padmanabhan Nair Vs. Narayanikutty and Another, is a Division Bench judgment of the Kerala High Court, in which, deceased was 45 years old at the time of his death and there was no proof of bad habit. Taking the 65 years age to be the normal life expectancy, it was held that the deceased would have lived for 20 years.

(27) Usha Attri and Another Vs. State of Haryana and Others, is a Single Bench judgment of the Punjab & Haryana High Court, in which, the deceased was a doctor and aged about 50 years at the time of the accident. The Tribunal had applied a multiplier of 6, which on appeal was raised to 10, holding that he was to retire at the age of 58 years. There was no claim or any discussion with regard to the deceased having earned even after retirement.

(28) Dewan Hari Chand & Ors. versus Municipal Committee of Delhi and others reported as Air 1981 Del 71, is a Division Bench judgment of this Court in which, the deceased was healthy and aged 28 years. He had minor brothers, who were legally not dependent on him. Taking into consideration the life expectancy and the dependency, a multiplier of 16 was adopted.

(29) Mahinder Singh Vs. Manju and Others, is a Single Bench judgment of this Court in which the deceased was M.A., LL.B., aged 47 years and an employee of Life Insurance Corporation of India at the time of his death. The plea taken up in that case was that after retirement, the deceased would have lived up to 70 years and had practiced, thus, earning almost the same amount as salary. This plea was not accepted holding that he would have achieved success as a lawyer and would have lived up to 70 years was based on conjectures and surmises. It was, in these circumstances, that the multiplier of only 11 was applied, taking his retirement at the age of 58 years.

(30) Shri O.P. Goyal, Learned counsel for the claimants has placed reliance upon the judgment in the case of Satya Wati Pathak Vs. Hari Ram and Others, by Single Judge of this court in which it was concluded that the deceased, a teacher would have continued earning up to the age of 75 years. This case had, however, been over-ruled by a Division Bench of this Court in case Sushila Devi and Others Vs. Municipal Corporation of Delhi, .

(31) Usha Mehra and Others Vs. Naresh Chand and Others, is yet another judgment of this Court in which, deceased was 40 years of age, who was a Technical man and would have worked up to 60 years and it was held that the payment being made in lump-sum would take care of the income beyond 60 years.

(32) Surinder Kumar and Another Vs. Tajinder Kaur and Others, is a Division Bench judgment of this court which had upheld the multiplier of 40 in case of the deceased, aged about 30 years, who was survived by his mother and four minor children, though, the Division Bench found that the multiplier was slightly on higher side.

(33) Dharam Singh and Another Vs. Parveen Sehgal and Others, is a Single Bench judgment of this court in which the deceased was an accountant in a bank and aged about 39 years at the time of his death. Tribunal had applied multiplier of 15. Mother of the deceased was 60 years and healthy. It was held that he could live up to 70 years to support the family and the multiplier of 31 was applied.

(34) A multiplier of 24 was adopted in the case of Seetha Lakshmi Krishnan Vs. Gian Parkash etc., , a Single Bench judgment of this court. Similarly a multiplier of 24 was adopted in case Seetha Lakshmi Krishnan and Others Vs. Gian Parkash etc., where the deceased was 34 years old and was working as an Investigator in the Office of the Chief Controller of Imports & Exports at the time of his death, leaving behind a widow and three children.

(35) On consideration of all the judgments referred to above, I am clearly of the view that no fault can be found in the findings of the learned Tribunal with regard to the earnings that would have been made by the deceased at least up to the age of 65 years, keeping in view the longevity in the family.

(36) Learned Tribunal has concluded that the deceased would have spent 25% on him and might have had to pay taxes also. In this way, deducting 30% of his earnings, 70% would have been available to his family members. No error could be pointed out in this conclusion of the learned Tribunal that the deceased would have contributed 70% of his earnings for the family.

(37) As per the calculation made by the trial Judge, the deceased would have earned Rs.4,11,748.80p till his retirement. Deducting 30%, which would have been spent by the deceased on himself, a sum of Rs.2,88,223.00 would have come to the hands of the claimants till the date of retirement of Dr. Narendra Kumar. As already discussed, the learned trial court has concluded that the deceased would have started private practice as a Homeopathe deceased had sound health and the age of his father.

(38) The earning of the deceased has been assessed at Rs. 1,000.00 per month after his retirement which is less than what he was getting while in service. This amount is reasonable and calls for no interference. The total earnings of 7 years would come to Rs.84,000.00 . 25% has been deducted by the trial court as might have been spent by the deceased on himself. As per the findings of the trial court, a deduction of 30% was made from his earnings till retirement. The same deduction ought to have been made even for this period. Making a deduction of 30%, a sum of Rs.58,800.00 would be the pecuniary loss to the heirs of the deceased and not Rs.63,000.00 . The finding of the learned trial court is modified accordingly.

(39) The learned trial Judge has also awarded a sum of Rs.5,000.00 as compensation on account of loss of love, affection and care and the great mental pain and agony, suffered by the claimants. Learned counsel for Delhi Transport Corporation could not say anything against this award.

(40) Shri O.P.Goyal, learned counsel for the claimants has submitted that the scales of pay of the government employees as also the employees of the Mcd had been revised and the deceased would have received salary according to the revised scales and thus, submitted that the amount of compensation should be increased as the deceased would have received a sum of Rs. 15,86,384.00 and referred to an application under Order 41 Rule 33 read with Section 151 CPC moved by him in this regard. He has placed reliance upon the case Seetha Lakshmi Krishnan and Others Vs. Gian Parkash etc., by a Single Judge of this Court.

(41) Shri J.N. Aggarwal, learned counsel for the Delhi Transport Corporation, has however, submitted that this is an application for additional evidence and has denied the correctness of the averments made in the application with regard to salary, the deceased would have received on the basis of the Pay Commission Report. Shri O.P. Goyal, learned counsel for the claimants has made a statement at the bar that the claimants do not want any opportunity to lead evidence in support of this application and the only submission is that the application may be considered as it is forgiving benefit of the increase in the salary. I am afraid, in the absence of the proper evidence being led in accordance with law, the claimants can not make any claim with regard to the benefit of the revision of the pay scale and what amount the deceased would have been paid on the revision of the pay scales. The case Seetha Lakshmi Krishnan and others (supra), in my view, cannot be of any help to the claimants. In that case, the details of the enhanced salary, on the basis of the report of the pay commission were given in the C.M. and on a notice being given to the opposite party, there was no appearance by the respondents. The application was, thus, allowed and the details furnished by the claimants were taken as correct and benefit given to the claimants. In the instant case, the application having been contested and the claimants being not ready to lead evidence, this prayer of the learned counsel for the claimants for giving benefit of the revision of pay scales on the basis of the report of the Pay Commission, is declined.

(42) In this case, the learned Tribunal has allowed interest @ 9%. Shri O.P. Goyal, learned counsel for the claimants has submitted that the normal rate of interest paid in such cases is 12%, which in some cases has even been raised to 14%, and a prayer has been made that the rate of interest be enhanced from 9% to 112%. It is pertinent to note that in the case Mahinder Singh Vs. Manju and Others, , a judgment of the Single Bench of this court, the rate of interest was increased from 6% to 12% from the date of application, placing reliance upon the judgment of Supreme Court in the case reported as Smt. Chameli Wati and Another Vs. Municipal Corporation of Delhi and Others, . In case Dharam Singh and Another Vs. Parveen Sehgal and Others, , a judgment of Single Judge of this court, the interest was awarded @ 14% with a direction that if the amount along with interest @ 12% was paid within 2 months, the claim would stand satisfied. Considering all the facts and circumstances and the law on the subject, I am clearly of the view that in the instant case also, the rate of interest should

be 12% instead of 9%.

(43) No other point was urged.

(44) In view of my a foregoing discussion, it is clear that the trial court has awarded Rs.4,200.00 more to the heirs of the, deceased and deducting this amount, the claimants would be entitled to receive Rs.3,52,023.00 only. Both the appeals are accepted in part and the award is modified to the effect that the claimants shall be entitled to compensation of Rs.3,52,023.00 with interest at the rate of 12% from the date of filing of the petition till realisation or deposit. Parties are, however, left to bear their own costs.