(1991) 10 J&K CK 0001

In the Jammu And Kashmir High Court

Case No : C.I.M.A. No. 70 and 73 of 1989

Shri Ram Khorana and Others APPELLANT

Vs

Riaz Ahmed and Others RESPONDENT

Date of Decision : 03-10-1991

Acts Referred:
Motor Vehicles Act, 1939 — Section 110B

Citation : (1993) ACJ 462 : AIR 1993 J&K 37

Hon'ble Judges : V.K. Gupta, J

Bench : Single Bench

Advocate : H.L. Bhagotra, for the Appellant; S. Gurmukh Singh and H.L. Chowdhry, for the Respondent

Judgement

V.K. Gupta, J.—The brief facts leading to the filing of the aforesaid appeals and cross-objections are that the respondents Mst. Shamina,

Raiz Ahmed and Fayaz Ahmed had filed a claim petition u/s 110A of the Motor Vehicles Act for grant of compensation consequent upon the

death of one Ghulam Nabi Zagu, husband of respondent Mst. Shamina and father of respondents Riaz Ahmed and Fayaz Ahmed, Ghulam Nabi

Zagu had died on 29-6-1983 at the alleged age of 31 years, while he was travelling in Bus No. JKY/1201 which collided with truck No. DHL-

2797 on the same day, i.e. 29-6-1983, and as a result of this collision the bus rolled down about 400 ft. deep into a garge leading to and resulting

in the instantaneous death of the said Ghulam Nabi Zagu. Allegations of rashness and negligence were attributed against the driver of the truck No.

DHL-2797, respondent Kuldeep Singh, and accordingly the aforesaid claim petition was filed against this driver, the owner of the truck

respondent Shri Ram Khorana and the insurer Oriental Insurance Company.

Since the prayer for the grant of compensation was contested by the

respondents above named, the Tribunal framed the following three issues for adjudication:--

1. Whether on 29-6-1983 respondent No. 1 while acting under the employment of respondent No. 2 drove the truck No. 2797-DHL in a rash

and negligent manner and at a place shalbas on the Jammu Srinagar National Highway caused collision with Bus No. 1201 / J KY in which the

deceased Ghulam Nabi was travelling as passenger who as a result thereof had died? OPP.

2. In case issue No. 1 is answered in affirmative to how much claim of compensation the petitioners are entitled and from whom? OPP.

3. Relief.

After returning the findings on all the issues, the Claims Tribunal finally awarded Rs. 3,11,200/- as the amount of compensation in favour of the

claimants and fastened the liability of the insurer to the extent of Rs. 1,45,000/- and the remaining liability was divided between the owner and

driver to the extent of Rs. 1,40,000/- and Rs. 11,200/-respectively. The Tribunal also awarded interest on the compensation amount at the rate of

6% per annum from the date of the filing of the application till the amount was fainally realised. The petitioners were allowed costs of Rs. 800/- to

be shared equally by all the respondents in the claim petition.

2. None of the Appellants in both the appeals has challenged, in the memos of appeal or during the course of arguments in the court, the findings of

the Tribunal on issue No. 1 concerning the rashness and negligence of the driver of the offending vehicle in casuing the accident resulting in the

death of Ghulam Nabi Zagu deceased. Both the appellants have, however, challenge the findings of the Tribunal on issue No. 2, the appellant Shri

Ram Khorana in C1MA 70/89 assailing the finding on the ground that the amount of compensation was excessive and that in any event the

offending vehicle having been insured and the extent of insurer's liability being unlimited, the entire compensation amount ought to have been

directed to be recovered from the insurer; and the appellant Oriental Insurance Company in CIMA No. 73//89 challenged the findings on the

limited question of the extent of compensation awarded. The Appellant Oriental Insurance Company in CIMA No. 73/89, even while averring in the memo of appeal about its liability being limited to Rs. 1,50,000/- has, clearly and unequivocally, through its counsel Mr. H.L. Chowdhry,

conceded in the Court during the course of arguments that, in fact, its liability to indemnify the insured against the award passed against him was

unlimited and to that extent has not contested the contention of appellant Shri Ram Khorana in CIMA No. 70/89 that the entire award amount

ought to have been directed to be recovered from the insurer, Oriental Insurance Company.

3. Because of the admission of Mr. H.L. Chowdhry about the Oriental Insurance Company having unlimited liability arising out of the contract of

insurance and consequently the fact that such unlimited liability would absolved the appellant Shri Ram Khorana from the burden of paying any part

of the compensation amount as directed by the Tribunal in the impugned award, the only issue of controversy raised in both the appeals and the

cross-objections is about the extent of the quantification of the amount of compensation awarded by the Tribunal and the rate of interest allowed

thereupon.

4. Whereas the respondents, represented by Shri Gurmukh Singh, Advocate, have contended that the amount awarded by Tribunal was just and

fair and strictly in accordance with principles of law laid down for the purpose, M/s. H.L. Bhagotra and H.L. Chowdhry, learned counsel

appearing for the appellantls Shri Ram Khorana (CIMA 70/89) and Oriental Insurance Company (CIMA 73/89), have argued at length with

references to various judgments of the Supreme Court and High Courts that the amount of compensation awarded by the Tribunal was excessive

on all counts and that it deserves to be slashed down considerably. Similarly, Mr. Gurmush Singh, learned counsel for the respondents, has

challenged the Tribunal's direction with regard to rate of interest and has claimed in his cross- objections the rate of interest at the rate of 12% P.

A. instead of 6% P.A. as granted by the Tribunal.

5. There is no authoritative pronouncement by this Court covering the entire field governing the general questions relating to the grant of

compensation in cases decided by Accidents Claims Tribunal under the Motor Vehicles Act arising out of motor accidents. The law of grant of

compensation arising out of accidents of motor vehicles in India generally and in

J. & K. State, particularly, is not very old one and and, in fact, is

of recent origin. Before the codification on this subject of law, the grant of compensation arising out of motor accidents was covered under the

General Law of Torts and it was only after coming into force of the Chapter containing Sections 110, 110A, 110B and other related Sections, that

the subject was codified and Accident Claims Tribunal in different areas were constituted. u/s 110, the Motor Accident Claims Tribunals were

constituted and Section 110A provided for the filing of applications for compensation whereas Section 110B mandated the Tribunals to pass

awards which it thought just and fair. In fact, the liability to pay compensation did not flow from the codified provisions of the Motor Vehicles Act

but came under general provisions of the uncodified common law of Torts. Of the recent origin also was the coming into force of the Fatal

Accidents Act, Sections 1A and 2 whereof providing for the liability of the person committing the wrong to pay the damages to the person

aggrieved and the obligation upon the courts to grant such damages as they may think proportionate to the loss resulting from such death or injury

to the parties concerned, for whom and for whose behalf such action should be brought and the amount recovered.

6. Neither in the General Law of Torts nor in the Fatal Accidents Act nor for the matter in the Motor Vehicles Act were any specific guidelines

enacted or provided for determining the amount of compensation. Section 110B of the Motor Vehicles Act only enabled the claims Tribunal to

make an award ""determining the amount of compensation which appears to it to be just and specifying the person or persons to whom

compensation shall be paid"". Similarly, Section 110A of the Motor Vehicles Act provided that the application for compensation should be made

by or on behalf of all the legal representatives of the deceased. Determination of the amount of loss in petitions under the Motor Vehicles Act, from

the death, to the dependents has been found to be a ticklish question by the courts when the cases involving the same came up before them. As

and when a Court was called upon to determine the less resulting from premature termination of life an account of the fault or negligence of another

person, naturally the first question which always felt for consideration and determination has been and was being directly related to the salary or earnings of the deceased at the time of his premature death and his earning capacity in the times to come, had he not died as a result of the

accident. Other relevant matters for determination and adjudication before the Courts have been the life expectancy of the deceased by which the

life has been cut short, the ages of the deponants, the prospects of the increase in earnings, the contingency of the widow of the deceased re-

marrying and a host of other allied factors which could even come in the category of speculations or general estimates.

7. With the passage of time and over different periods, what with changing situations of economy, prosperity and general expectancy of life, the

Courts have been evolving different yards-sticks and methods for determining the amount of the compensation to different persons or to the legal

representatives of the deceased. Generally speaking three methods of computing the compensation amount have been constantly adopted by the

Courts in India. These methods are :-

(a) Interest Method;

(b) Lump sum Method; and

(c) Multiplier Method,

(a) INTEREST METHOD:

This method comprised in awarding a capital sum the annual interest (at current rates of bank interest) upon which sum will be equivalent to the

future annual loss. In further laboration It can be said to mean that as per this method the annual loss of dependency as on the date of the death

was first ascertained, then a sum was determined the interest on which is equivalent to the annual loss of dependency. Such sum was granted as

compensation towards future loss of dependency. When such a sum is awarded, the dependent would enjoy the periodical interest which would be

equivalent to the loss of dependency. But the lump sum amount which was paid did not extinguish. So it was generally observed and found that by

adopting the interest method the claimants would normally be ever compensated and it could thus be called a case of over enrichment. Over a

period of time, therefore, this method came to be disappreved by almost all the Courts in India.

(b) LUMP SUM METHOD:

The Lum Sum Method is another alternative in computing future loss of earnings. After the virtual rejection of the interest method lump sum method

came to be adopted by the Courts in later year. As per this method the annual loss for each of the future years of expected life of the deceased

used to be first ascertained and the sum would thus be totalled up. While some courts felt that the said entire amount had to be paid as

compensation without any deduction for uncertainties and accelerated payment, other courts felt that some deduction had to be made in regard to

the two factors referred to. For a variety of reasons, however, lump sum method was also not found favourable and it virtually came to be rejected

and disapproved by the Courts in India.

(c) MULTIPLIER METHOD

As per the multiplier method, the usual precedure has been to settle on the basic annual figure of dependency and then apply a multiplier which

affects to take care of the uncertainties and vicissitudes of life, also the fact that the widow is getting an immediate lump sum which could be

invested. In Mallet v. McMonagle, 1969 ACJ 312 , Lord Diplock, in the appeal before the House of Lords, laid down the following principles for

the purpose of working out the annual dependency:--

To assess the damages it is necessary to form a view on three matters each of which is in greater or less degree one of speculation; (i) the value of

the material benefits for his dependants which the deceased would have provided out of his earnings for each year in the future during which he

would have provided them had he not been killed, (ii) the value of any material benefits which the dependents will be able to obtain in each such

year from sources (other than insurance) which would not have been available to them had the deceased lived but which will become available to

them as a result of his death, (iii) the amount of the capital sum which with prudent management will produce annual amounts equal to the difference

between (i) and (ii) (i.e. 'the dependency') for each of the years during which the deceased would have provided material benefits for the

dependents had he not been killed.

The effect of inflation was also considered but he was of the opinion that the same can be set off to some extent at any rate by prudent investment

in buying a home in growth stock, or in the short-term high-interest bearing securities. After considering the argument that along with the inflation

the rate of bank interest had also been rising and the investment of the amount in bank was likely to produce enhanced income, he came to the

following conclusions in para 47 :

In my view, the only practicle course for Courts to adopt in assessing damages awarded under the Fatal Accidents Acts is to leave out of account

the risk of further inflation on the one hand and the High interest rates which reflect the fear of it and capital appreciation of property and equities

which are the consequence of it on the other hand. In estimating the amount of the annual dependency in the future, had the deceased not been

killed, money should be treated as retaining its value at the date of the judgment, and in calculating the present value of annual payments which

would have been received in future years, interest rates appropriate to times of stable currency such as 4 per cent to 5 per cent should be

adopted"".

In the celebrated judgment of the House of Lords in Davics v. Powoll Duffryn Associated Collieries Ltd. 1942 AC 601, Lord Wright in his

judgment while dealing with the question relating to the determination of the amount of wages which a deceased was earning, held as under :-

There is no question here of what may be called sentimental damage, bereavement or pain and suffering. It is a hard matter of pounds, shillings

and pence, subject to the element of reasonable future probabilities. The starting point is the amount of wages which the deceased was earning, the

ascertainment of which to some extent many depend on the regularity of his employment. Then there is an estimate of how much was required or

expended for his own personal and living expenses. The balance will give a datum or basic figure which will generally be turned into a lump sum by

taking a certain number of years' purchase. That sum, however, has to be taxed down by having due regard to uncertainties, for instance, that the

widow might have again married and thus ceased to be dependent, and other like matters of speculation and doubt.

Perhaps multiplier method was first adopted in India in a crystallized form by the Supreme Court in the case of Municipal Corporation of Delhi Vs.

Subhagwanti and Others, . In this case the deck Tower in Chandni Chowk, Delhi had collapsed resulting in the death of three persons. Three separate suits had been filed by the legal representatives of the deceased and in one case it was found that the deceased was spending Rs. 150/-

per month for the subsistence of his legal representatives and was thirty years old at the time of the death. The widow was 28 years and the son

and the daughters ages ranged from 2 to 14 years, A total amount of Rs. 27,000/- was awarded by the Apex Court by capitalising the yearly less

for a period of 15 years. Similarly, in the case of Madhya Pradesh State Road Transport Corporation v. Sudhakaran 1977 ACJ 290 : AIR 1977

SC 1189 one woman aged 23 years one year's old son had died while travelling in a bus as a result of an accident. At the time of her death the

woman was a physical instructor and drew Rs. 190/- per month. By taking into consideration various factors, the Supreme Court applied and

adopted 20 years multiplier and while discussing and approving the concept of the application of multiplier, it held as under:--

A method of assessing damages usually followed in England, appears from Mallett v. McMonagle (supra), is to calculate the not pecuniary loss

upon an annual basis and to arrive at the total award by multiplying the figure assessed as the amount of the annual 'dependency' by a number of

'year's purchases', that is, the number of years the benefit was expected to last, taking into the consideration the imponderable factors in fixing

either the multiplier or the multiplicand. The husband may not be dependent on the wife's income, the basis of assessing the damages payable to the

husband for the death of his wife would be similar. Here, the lady had 35 years of service before her when she died. We have found that the

claimant's loss reasonably works out to Rs. 50/ -a month i.e. Rs. 600/- a year. Keeping in mind all the relevant facts and contingencies and taking

20 as the suitable multiplier, the figure come to Rs. 12.000/-. The Tribunal's award cannot therefore be challenged as too low though it was not

based on proper grounds.

A Full Bench of Punjab and Haryana High Court in the case of Lachhman Singh and Others Vs. Gurmit Kaur and Others, held that the most just

and reasonable method was that the total amount of damages should be arrived at by multiplying the annual dependency by a suitable multiplier.

8. The sole basis of awarding compensation the dependents of the deceased is that on account of culpable negligence or default of the Offender, a

precious life, which was the source of livelihood to the claimants, is cut short. Before his death, the deceased was making a livelihood for himself

and his dependants, either through business, employment, enterprise or any other manner, and that it was because of his being the bread earner of

the family that his dependents were making a comfortable and honourable living. It is, no doubt, true that the deceased would be spending some

part of his earnings for his own maintenance, and some part, a major one, in normal course would be spent for the upkeep and maintenance of the

dependents who included his widow, children and in some cases even parents. In some cases even after spending on himself and for the

maintenance and upkeep of his family members, surplus would still be left which he may have been utilising for either bringing into existence his

estate or property or for adding to one or both of them. In this background therefore the abrupt termination of life of the bread earner and Head of

the family, in majority of cases the only bread earner, definitely results in loss to the dependants or to the estate of the deceased. The basic figure of

annual dependency has thus to be determined after excluding amount which the deceased was spending on himself or which he was investing in

some capital investment or formation of his estate. So far as good. The difficulty, however, arises and has always arisen in converting this into the

total amount of compensation. For this purpose the relevant factors are obviously the number of years by which the unfortunate life has been cut

short. In order to determine the same, the average life expectancy has to be worked out. Along with working out the average life expectancy of the

deceased, the ages of the dependants and their various stages of life have also to be kept in mind. There are various factors in this regard such as,

the old age of parents who may be expected to live for just about 5 or 10 more years, the prospects of the widow remarrying or in some cases

even the widow and the children being at such advanced age that they hardly need compensation or could be deemed to have suffered financially

because of the death of the deceased.

9. A Division Bench of Gujarat High Court in the case of Hirji Virji Transport v. Basirara Bibi reported in 1971 ACJ 458 while dealing with the

question of consideration of various factors in adopting a suitable multiplier has held as under:--

The damage on this head of loss to the dependents is arrived at by awarding lump sum amount which is calculated by applying a proper multiplier

to the amount of one year's dependency. This multiplier is known as year's purchase factor. Even though Lord Wright contemplated the conversion

of this annual dependency figure into a lump sum by taking a number of year's purchase, he also provided in terms for a subsequent reduction to

allow for all the various uncertainties and matters of speculation and doubt. In practice, however, when this year's purchase method is adopted the

Courts have usually adopted such a multiplier by way of a number of year's purchase as would be deemed to take into account all the doubts and

uncertainties which would go to reduce the sum to be awarded. What this multiplier must be in any individual case would of course depend on the

particular circumstances of the case because one has to take into account the probable duration of the life of the deceased, duration of the life of

the widow and their dependants who might prematurely die, the possibility of widow's remarriage, acceleration of interest in the estate, possibilities

of increased earning on the one hand as well as disablement or unemployment on the other. All other possibilities and chances are taken into

account.

10. Experience has shown that different courts at different times in different cases have failed to evolve a procedure or mode whereby a formula

could be applied in regard to the adoption of the multiplier system. In most of the cases the Judges of the Courts, whether the Tribunals at the trial

stage or the High Courts in appeals, have been selecting, adopting and applying the multipliers, as to say ""at their whims and in an arbitrary manner

without usually revealing and disclosing the mathematical (if ever there was one) by which they arrived at the appropriate multiplier, (sic). Judges,

the multiplier system was evolved and the multipliers were being applied without there being any set principles for the same. In none of the above

referred decisions have any guidelines been provided for choosing the multipliers and in the absence of sufficient guidelines, for choosing

appropriate multipliers, award of varying amounts by different Tribunals in regard to cases of similar circumstances have been observed in

abundance. If in one case a multiplier of 15 is taken and if in another similar case another Tribunal (or may be the same Tribunal) had adopted the multiplier of 20, there is bound to be wide divergence in the compensation awarded.

11. To have uniformity and to obviate divergence in regard to the amounts to be awarded as compensation in similar cases, relying on the basis of

Mortality Tables prepared in India and by adopting the reverse of the compound interest rate by taking 4% as real interest, a single Bench (Jagan

Nath Rao, J.) of Andhra Pradesh High Court in the case of Bhagwandas Vs. Mohd. Arif, prepared Annuity Tables thereby indicating the suitable

multipliers to be adopted at various age levels. If one has to choose a multiplier from such a table every Tribunal would choose the same multiplier

for the same age and there cannot be any variance in multiplier in regard to the same age, except in the special circumstances in which it can be

enhanced. Even the enhancement suggested in the said case is only by one or two points and hence there cannot be much divergence in choosing a

multiplier. But if the Tribunals are allowed to choose the multiplier which may vary to an extent of 5 or even 10 points, in regard to same age, there

is always great scope of wide divergence resulting in variance in the compensations to be awarded in different cases by different Tribunals or even

the same Tribunal. I have very minutely gone through and perused the judgment in the aforesaid case. The author of this judgment (Jagan Nath

Rao, J.) in para 47 of the judgment has disclosed that advance statistics and advanced mathematics were his first love before he drifted to the

profession of law and therefore he has taken great pains in constructing a table for different age intervals strictly according to the actuarial formula.

The learned Judge, in fact, conducted a very deep study into the very subject matter of the multiplier system, compiling statistics from Registrar-

General, Government of India and the S.R.S. Based Abridged Life Tables. He took into consideration various economic factors like inflation,

dividends, rise and fall of monies and related matters.

12. The aforesaid judgment of the learned single Judge of Andhra Pradesh High Court came up for discussion before a Division Bench of the same

Court in the case of Nirma Narsava v. Vilas Ramachandra reported in 1989 ACJ 715 : AIR 1990 AP 33 and their Lordships of the Division

Bench have totally and absolutely, and without any reservations, approved the method adopted by the learned single Judge by evolving the multiplier system.

13. Looking to the conditions prevalent in Jammu and Kashmir State and in the background of the development of law on the question of multiplier

system which I have discussed above, I am of the firm and definite view that in Jammu and Kashmir State also the Annuity Table prepared by

Justice Jagan Nath Rao in the case of Bhagwan Dass (supra) will hold good and fully be applicable. The Table prepared is reproduced as under:--

Multiplier Table (4 per cent interest)

Urban â?" Male :

Age Multiplier

15 20.16

20 19.14

25 17.95

30 16.51

35 14.81

40 12.79

45 10.45

50 7.68

55 4.27

59 0.97

This table has been prepared by taking the mortality rates published by the Registrar General of India and real non-inflationary rate of interest of 4

per cent. The above multiplier table has been prepared for those retiring at the age of 60 years and is in respect of Urban Males. Age as shown in

the Table is at the stage of trial (i.e. the commencement of the tiral) in injury cases and on the date of death in the fatal cases. The learned Judge

has below the table specified certain variations which could be adopted in different eventualities. I reproduce them below :--

Taking this as guidance, multipliers for urban females can be approximated by increasing the figures slightly (up to 0.20).

The multipliers for rural males will be slightly lower than in this table while those for rural females are slightly higher than in the Table. This is

because of the relative higher or lower mortality rates given in the S.R.S. Table.

In computing multiplier (for persons who, like professionals, earn for all their life and there is no retirement, the multiplier from the Table can be

increased (approximately) by 1 to 2 points the higher increase being adopted in cases of younger persons.

49. In cases of injuries, the relevant age for selecting the multiplier will be age at the time of trial for computing present value of future earnings

because the loss up to trial can be otherwise computed directly. In cases of fatal accidents, the age at the time of death gives the relevant multiplier

and this is subject to the further lowering of the same if the dependants (such as parents) are of advanced age.

14. I, therefore, hold that the system evolved by Justice Jagan Nath Rao in Bhagwan Das's case (supra) is and will be best suited system in

adopting multiplier formula and that the Tribunals in disposing of the cases for the grant of compensation should follow this system. I may, however,

add that the multiplier prescribed above can be enhanced in exceptional cases where there is clear evidence to show that there were bright

prospects of out of turn promotions incase of employees or steep increase of income in other cases. But this can be done only in compelling

circumstances and the Tribunals in increasing the multipliers over and above the one prescribed by the aforesaid table must record cogent and

sufficient reasons in doing so.

15. Adverting to the facts of the present case, it is noticed that the deceased on the date of death was drawing monthly salary of Rs. 807/-; was a

teacher in Government School and was of 31 years age. In normal circumstances the deceased would be contributing about Rs. 600/- per month

to maintain and up-keep his family. Thus on an average deceased would be spending Rs. 7200/- per year for the benefit of the claimants which can

be termed as the annual loss/dependence of the claimant in relation to the claim lodged by them. In the absence of any exceptional circumstances

brought out in the evidence of the claimants, like the outstanding merit of the deceased or his unduly higher academic qualifications thus enhancing

the chances of out of turn accelerated promotion, the multiplier indicated in the Table above has to be applied and looking at the age of the

deceased at 31 years, the suitable multiplier in this case should be 16.00 Rs. 7200/- x 16 would thus come to Rupees 1,15,200/- which in the present case shall be just, equitable and proper amount of compensation. The Tribunal, therefore, has grossly erred in awarding Rs. 3,11,200/- as

compensation. The reasons assigned by the Tribunal are neither just nor proper.

16. Those days especially in last ten years or so the rate of interest has increased tremendously and most of the Courts in the country have been

awarding interest at the rate of 12% per annum. The Tribunal has also erred in awarding interest at the rate of 6% and the interest ought to have

been at the rate of 12 per cent from the date of filing of the application.

17. Based on the aforesaid discussion, therefore, the appeals are partly allowed. The cross-objections are also allowed. Consequently, it is

ordered as under:

(i) The award and judgment dated 7-8-1989 impugned in the appeals and the cross-objections, are modified and altered to the extent that the

claimants-respondents 1 to 3 in CIMA No. 73/89, are held entitled to the grant of compensation resulting from and arising out of the death of

Ghulam Nabi Zagu to the extent of Rs. 1,15,200/- and not Rs. 3,11,200/- as awarded by the Tribunal;

(ii)The aforesaid grant of compensation shall carry interest at the rate of 12% per annum, instead of 6 per annum, from the date of the filing of the

claim petition till the compensation amount is fuily realized by the claimants;

(iii)The amount of Rs. 800/- awarded as costs in favour of the claimants to be shared equally by the respondents in the claim petition, is upheld but

with modification that it shall be borne by appellant -- Oriental Insurance Company and not by any one else; and

(iv) The entire amount of compensation along with interest thereupon and the amount of costs, as indicated above, shall be paid by the appellant --

Oriental Insurance Company in CIMA No. 73/89 and that part of the impugned judgment and award, which directed the payment of the part of

compensation amount by appellant -- Sri Ram Khorana and respondent Kuldeep Singh, is quashed and set aside;

(v) Any amount deposited or paid by appellant Sri Ram Khorana in CIMA No. 70/1989 in this court is directed to be refunded to him forthwith

and the Additional Registrar shall do so on his filing an application for this purpose.

There shall be no Order as to costs in the proceedings in this Court.

