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

BEFORE

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

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W.P.(C) 4202/2008

Between: -

MUNNA S/O SH. SHAKOORPETITIONER NO.1

SMT. MUMTAZ W/O SH. MUNNA
BOTH R/O 13, T-HUTS, E-3 BLOCK
NAND NAGRI, DELHI.PETITIONER NO.2

(Through: Mr. J. S. Kanwar, Adv.)

AND

MUNICIPAL CORPORATION OF DELHI
THROUGH ITS COMMISSIONER
TOWN HALL, CHANDNI CHOWK, DELHI
.....RESPONDENT NO.1

THE COMMISSIONER OF POLICE
POLICE HEAD QUARTER,
I.P. ESTATE, NEW DELHI-02.
.....RESPONDENT NO.2

(Through: Mr. Kumar Rajesh Singh, Standing Counsel for MCD.)

% Reserved on : 07.08.2024
Pronounced on: 12.09.2024

J U D G M E N T

In the instant writ petition, the petitioners claim compensation amounting to Rs. 20,00,000/- on account of the tragic death of their minor son, namely Master Sonu (hereinafter “deceased”), aged about seventeen years, who died due to the alleged negligence of the

respondent-Municipal Corporation of Delhi (hereinafter “respondent-MCD”).

2. The facts of the present case exhibit that on 27.07.2007, at around 7:20 PM, when the deceased was returning to his home, a big slab/lantern fell on him from a quarter owned by the respondent-MCD. The deceased was then taken to the G.T.B. Hospital, Shahdara, Delhi, whereby, it was found that he had already succumbed to his injuries. The information of the said incident was then given to the Police *vide* DD No. 18-A at Police Station, Nand Nagri, Delhi. Subsequently, after conducting the post-mortem on the following day, the body of the deceased was handed over to the petitioners. Thereafter, the last rites were performed by the petitioners on the even date.

3. Mr. J.S. Kanwar, learned counsel appearing on behalf of the petitioners, submitted that the flat, from where the slab/lantern fell, is owned by the respondent-MCD. He further submitted that the quarter was not properly maintained by the respondent-MCD which tantamount to a clear dereliction of duty on the part of the respondent-MCD. According to the learned counsel, the death had occurred on account of gross negligence of the respondent-MCD as it had failed to deploy necessary security personnel at the said flats and had not carried out the required upkeep, resulting in the aforesaid incident.

4. It is also stated by the learned counsel for the petitioners that the said quarters were in a dangerous condition and said fact was also in the knowledge of the respondent-MCD. He further avers that there was no watchman, fencing or signboard in place which could warn the passersby from the underlying threat due to the dilapidated state of the construction which led to the incident. He contends that it was obligatory upon the respondent-MCD to take all the precautionary

measures necessary to protect the life of general public but unfortunately, on account of its failure to perform the said duty, an incident causing the loss of life has occurred. He, therefore, submits that the petitioners are entitled for compensation.

5. In order to buttress his submissions, learned counsel for the petitioner has placed reliance upon the decisions of this Court in the cases of *Shri Chand v. Chief Secretary, NCT of Delhi and Ors.*¹, *Nagrik Sangharsh Samiti and Ors v. Union of India and Ors.*² and *Subramaniam and Anr v. Delhi Metro Rail Corporation and Ors.*³ to substantiate his arguments.

6. Mr. Kumar Rajesh Singh, learned standing counsel who appears for the respondent-MCD, vehemently opposed the aforesaid submissions. While drawing strength from the counter affidavit which has been placed on record, he submitted that the writ petition itself is not maintainable under Article 226 of the Constitution of India as there was no lapse on part of the respondent-MCD. He asserted that there was no reason for the deceased to enter the premises when an alternative road of approximately 100 meters was available to him to reach his home. Further, he also contended that there was no thoroughfare between the quarters and they were surrounded by boundary walls signifying that a proper upkeep and watch was being done by the respondent-MCD.

7. It is also argued by the learned counsel for the respondent-MCD that the deceased might have entered the quarter premises with a motive of theft and the death had occurred due the deceased's own act and omission. According to him, no lapse was found by the Police on part of the officials of the respondent-MCD. Learned counsel has also

¹ 2004 SCC OnLine Del 337

² 2010 SCC OnLine Del 1351

³ 2013 SCC OnLine Del 2363

submitted that as and when any complaint with respect to the decrepit condition of the premises in question was brought to its notice, the necessary steps were taken to demolish the dangerous portions.

8. The learned counsel for the respondent-MCD submitted that the present petition involves various disputed questions of facts including the fact as to how the petitioner had died. He, therefore, contended that the amount of compensation cannot be determined in the present case and in the absence of their being proof of negligence by the respondent- MCD, the petitioners are not entitled to any relief. Learned counsel has placed reliance on the decision of this Court in *Harpati and Ors v. State of NCT Delhi and Ors.*⁴

9. I have considered the submissions made by learned counsel appearing for the parties and perused the record.

10. In view of the submissions made by learned counsel for the parties, the foremost issue which falls for consideration of the Court is whether under Article 226 of the Constitution of India, a prayer seeking compensation for death of a person on account of negligence can be entertained by the Writ Court?

11. Before advertng to the merits of the case, the Court finds it appropriate to understand the extent and scope of Writ Courts in granting compensation in the matters pertaining to negligence, as has been sought in the case at hand.

12. It is a settled law that the Constitutional Courts, while exercising powers under Article 32 and Article 226 of the Constitution of India can pass an order directing payment of compensation, in cases of violation of human rights and fundamental rights which amount to a Constitutional tort. The said position of law is affirmed in the

⁴ 2023 SCC OnLine Del 4607

decisions of the Supreme Court in *Nilabati Behara v. State of Orissa*⁵, *D.K. Basu v. Union of India*⁶ and *MCD v. Uphaar Tragedy Victims Assn*⁷.

13. Recently, in the case of *Shagufta Ali v. Govt. of NCT Delhi & Ors*⁸, while adjudicating on a plea seeking compensation for death of the husband of the petitioner therein due to electrocution, this Court surveyed the abovementioned decisions and held that “*public law remedy can be resorted to and monetary compensation can also be awarded in cases of violation of Article 21 of the Constitution of India.*”

14. Thus, undeniably, in cases where Article 21 of the Constitution of India is violated, individuals can resort to writ proceedings to remedy their plight by bringing into motion the wheels of public law, and consequently, monetary compensation may also be granted in appropriate cases.

15. The ancillary issue which stands posited before the Court is the standard of proof required for granting compensation under a public law remedy and whether the maxim of *res ipsa loquitur* i.e., absolute liability, is applicable in the present case.

16. In *Shagufta Ali*, the Court captured with precision the conditions inviting the applicability of the legal maxim *res ipsa loquitur*, while exercising writ jurisdiction to grant compensation. It was specifically noted that when State instrumentalities are directly and solely responsible for an incident and where the cause and fact of death are undisputed, the maxim *res ipsa loquitur* would come into play and be a decisive factor in adjudication of the controversy. This

⁵ (1993) 2 SCC 746

⁶ (1997) 1 SCC 416

⁷ (2011) 14 SCC 481

⁸ 2024 SCC OnLine Del 6250

principle allows for the presumption of negligence of the official respondents, though strictly based on the circumstances surrounding the case.

17. In another case of *Subramaniam* relied upon by the petitioners, this Court was considering the case of the death of an eight-year-old child who died playing with his friends on account of asphyxia caused by drowning in a stormwater drain. The Court in the said case took a view that the Constitutional Courts have vividly clarified the position through various judicial pronouncements that it would be incorrect to assert that the existence of disputed facts automatically divests a Writ Court of its jurisdiction to entertain a petition under Article 226 of the Constitution of India. It is thus discernible that though it is within the Writ Court's discretion to decline to entertain a petition where disputed questions of fact are involved, however, there is no blanket bar to hear such petitions, provided there are other overarching factors which would warrant indulgence.

18. In the case of *Shri Chand*, this Court was adjudicating an almost similar dispute, wherein, the petitioner's son suffered a tragic death after a concrete slab from a water tank fell on his head. It was held that on the basis of the documents submitted as evidence, including the FIR, post-mortem report, notice and relevant correspondences, it could undoubtedly be established that the deceased therein died as a result of falling of a concrete slab from the water tank. The Court also held that there existed an unequivocal responsibility of the respondents to ensure the proper maintenance of the water tank and associated amenities within the building, thereby safeguarding the lives of individuals passing by or using those facilities. Therefore, the case therein was considered to be a fit case for invoking the maxim *res ipsa loquitur*, as the negligence in

maintaining the water tank was manifestly evident from the record.

19. In *Nagrik Sangharsh Samiti*, a property in Delhi was engulfed by fire and as a result, thirteen persons died and six sustained injuries. The petitioner, *Nagrik Sangharsh Samiti*, an association of the victims of the fire tragedy, filed a writ petition for payment of compensation and damages to the dependants and legal heirs of the victims who had sustained injuries or lost their lives in the said fire. The Court held that the respondents therein were liable and responsible to pay compensation for loss or damage caused due to the said accident. It was also held that the State cannot escape from its liability by merely pleading that adequate care and precaution had been exercised, especially in the absence of any material or evidence placed on record to show and establish that appropriate care and caution was taken. The Court also observed that admittedly the requisite permissions and approvals were not taken by the respondents therein before conducting the trade of petroleum and inflammable chemicals, which was inherently dangerous and hazardous.

20. A Coordinate Bench of this Court, in the case of *Ram Kishore v. Municipal Corporation of Delhi*⁹, allowed a batch of writ petitions where the petitioners were parents who tragically lost their young children. Three of the four writ petitions, which were adjudicated *via* common judgement, had almost similar facts as is obtained in the instant case. Ram Kishore, a vegetable vendor, had filed W.P. (C) No. 4328 of 2001 claiming compensation from the respondent-MCD for the death of his 11 year old son Mahesh, who died when a wall of a municipal lavatory collapsed while he was using it. The third and fourth petitions were by Bhagwan and his wife Rajwanti, claiming compensation from the Delhi Development Authority (hereinafter

⁹ 2007 SCC OnLine Del 992

“DDA”) for the death of their son Vineet Pawar, aged seven years, who died on the spot when a heavy iron grill gate at the entrance of a DDA park fell on him while entering the park with his friends to play. It was held that in the facts of any given case, liability would lie with the State if the claimant is able to show that the State acted negligently or that the "*State or its instrumentality failed to discharge the duty of care casted upon it, resulting in deprivation of life or limb of a person.*" In discharging the burden of proving negligence, it would be open to the claimant, if the facts and circumstances so permit, to invoke the *res ipsa loquitur* maxim.

21. Therefore, this Court unhesitatingly concludes that it is a settled law that where the negligence and breach of duty by the State are writ large and duty of care is found to be specifically of the public authorities, the maxim *res ipsa loquitur* shall apply. When the State is under a statutory duty of care and fails to fulfil such duty, the presumption of liability without proof will also attract.

22. Turning to the factual scenario of the case at hand, it is evident from the post-mortem report issued by GTB Hospital that the cause of death of the deceased was attributable to blunt force trauma, consistent with injuries sustained from the fall of a lantern or slab at the premises of the respondent-MCD. The post-mortem report, placed on record by the petitioners records as under:-

“The cause of death in this case is shock due to haemorrhage due to antemortem injury to liver, kidneys and associated blood vessels produced due to blunt force impact “

23. It is also observed that the respondent-MCD has not disputed the factum of death in its counter affidavit. Instead, it has merely made counter-allegations against the deceased, without presenting any supporting evidence. The respondent-MCD's allegations that the deceased was a trespasser who entered the premises with *malafide*

intent lacks merit. Undisputedly, the quarters/flats in question are owned by the respondent-MCD, yet it has failed to provide any evidence to substantiate its claim of maintaining the property adequately. The respondent-MCD's vague assertions regarding the existence of a small boundary around the premises and the presence of chowkidars for vigilance are also unsubstantiated. Moreover, the argument that there was no thoroughfare between the quarters and that the deceased was not *en route* to his residence is irrelevant to the core issue and does not warrant credence by the Court.

24. It is also pertinent to consider the relevant statutory provisions under the Delhi Municipal Corporation Act, 1957 which enjoins the duty upon Commissioner of MCD to issue directions to the owner or occupier to demolish, secure, or repair such buildings within a specified timeframe to mitigate any potentially dangerous situation where buildings are in a dilapidated state, posing a risk to occupants, passers-by, or neighboring structures. Additionally, the said Section also requires the installation of protective hoarding or fencing to safeguard the public before any demolition or repair work begins. The extant provision reads under:-

“348. Removal of dangerous buildings.—(1) If it appears to the Commissioner at any time that any building is in a ruinous condition, or likely to fall, or in any way dangerous to any person occupying, resorting to or passing by such building or any other building or place in the neighbourhood of such building, the Commissioner may, by order in writing, require the owner or occupier of such building to demolish, secure or repair such building or do one or more of such things within such period as may be specified in the order, so as to prevent all cause of danger therefrom.

(2) The Commissioner may also, if he thinks fit, require such owner or occupier by the said order either forthwith or before proceeding to demolish, secure or repair the building, to set up a proper and sufficient hoard or fence for the protection of passers-by and other persons, with a convenient platform and hand-rail wherever practicable to serve as a foot-way for passengers outside of such hoard or fence.

(3) If it appears to the Commissioner that danger from a building

which is in a ruinous condition or likely to fall is imminent, he may, before making the order aforesaid, fence off, demolish, secure or repair the said building or take such steps as may be necessary to prevent the danger.

(4) If the owner or occupier of the building does not comply with the order within the period specified therein, the Commissioner shall take such steps in relation to the building as to prevent all cause of danger therefrom.

(5) All expenses incurred by the Commissioner in relation to any building under this section shall be recoverable from the owner or occupier thereof as an arrear of tax under this Act”

25. A perusal of the abovementioned provision would indicate that there exists an unequivocal duty on the shoulders of the respondent-MCD to maintain safety in the premises of the construction which is in an impaired state. In the instant case, it has been admitted by the respondent-MCD that the quarters, where the incident occurred, are owned by it. In the additional counter affidavit, it is also stated that a block of Reinforced Cement Concrete (RCC) fell down on the body of the deceased. It is also admitted by the respondent-MCD that the construction work was carried out during the year 1995-96, however, a dispute popped up in the interregnum and the contractor therein left the site unilaterally. The quarters were also exposed to pilferage by miscreants as per the respondent-MCD's own statement, but no material has been placed on record which may reflect that it took requisite actions either against them or for demolishing the dangerous portions. It is thus vividly observed that the respondent-MCD had the prior knowledge of its quarters being in a dangerous and dilapidated condition. Thus, the fact that the respondent-MCD was negligent in maintaining the safe condition of the said quarters is manifestly evident from the record.

26. Therefore, based on the post-mortem report and the submissions made by the respondent-MCD in its counter affidavit, it is conclusively established that the death of the deceased was caused due to the falling of the slab/lantern/block of concrete in the quarters

owned by the respondent-MCD. Therefore, the responsibility to ensure the proper maintenance of the premises in question unequivocally rested upon the respondent-MCD, which is predominantly cast with a bounden duty to maintain and repair constructions in dangerous conditions in the territorial limits of Delhi. Furthermore, the respondent-MCD also had a duty to maintain the premises in a manner that would not endanger the lives of passersby or individuals entering the premises. The present case is thus squarely covered by the maxim *res ipsa loquitur*, as the negligence of the respondent-MCD in failing to adequately maintain the premises is manifestly evident from the record.

27. It is also pertinent to look at the decision relied upon by the respondent-MCD in the case of *Harpati*. The facts of the said case show that the petitioners therein sought compensation alleging that Harpati's son had died due to mismanagement and negligence by the State agencies. The deceased was suffering from severe shortness of breath allegedly due to Covid-19 and was taken to Rao Tula Ram Memorial Hospital but did not receive timely assistance or an ambulance despite calling police several times as also Delhi Government Cab Ambulance Service. The respondent-hospital therein countered the submissions and claimed that the condition of the deceased was serious and that they had attempted to find an ICU bed, with no negligence involved. The Court held that since resolving the petitioners' claim for compensation requires adjudication of disputed facts, which cannot be settled solely through affidavits, the writ petition was held to be not maintainable under the writ jurisdiction. The Court relegated the petitioners to avail alternate legal remedies. Therefore, the decision relied upon by the respondent-MCD would not come to its aid, as the factum of death is undisputed and the

respondent-MCD has failed to demonstrate that the death did not result as a consequence of its negligence.

28. Having established the negligence on the part of the respondent-MCD, the next issue which needs adjudication is the quantum of compensation payable to the petitioners. The petitioners herein have prayed for Rs 20,00,000/- to be paid as compensation. However, no calculation in that regard is mentioned in the writ petition, as to how the petitioners have reached the same.

29. The petitioners have stated in the petition that the deceased was 17-years-old at the time of the incident and was a student in Class 11 at Government Boys Senior Secondary School, Janta Flats, Nand Nagri, Delhi. They also aver that the deceased was the captain of the school's Junior Kabaddi Team and a cadet of the National Cadet Corps (NCC), indicating that had the deceased's life not been tragically cut short, he would have had a promising future. However, the petitioners have not shown any document which may concretely reveal the family's income.

30. The Supreme Court in the case of *Lata Wadhwa v. State of Bihar*¹⁰, while laying down the principle of quantification of compensation in the case of death of children, held as under:-

“11. So far as the award of compensation in case of children is concerned, Shri Justice Chandrachud has divided them into two groups, the first group between the age group of 5 to 10 years and the second group between the age group of 10 to 15 years. In case of children between the age group of 5 to 10 years, a uniform sum of Rs 50,000 has been held to be payable by way of compensation, to which the conventional figure of Rs 25,000 has been added and as such to the heirs of the 14 children, a consolidated sum of Rs 75,000 each, has been awarded. So far as the children in the age group of 10 to 15 years, there are 10 such children who died on the fateful day and having found their contribution to the family at Rs 12,000 per annum, 11 multiplier has been applied, particularly, depending upon the age of the

¹⁰ 2001 (8) SCC 197

father and then the conventional compensation of Rs 25,000 has been added to each case and consequently, the heirs of each of the deceased above 10 years of age, have been granted compensation to the tune of Rs 1,57,000 each. In case of the death of an infant, there may have been no actual pecuniary benefit derived by its parents during the child's lifetime. But this will not necessarily bar the parents' claim and prospective loss will found a valid claim provided that the parents establish that they had a reasonable expectation of pecuniary benefit if the child had lived. This principle was laid down by the House of Lords in the famous case of Taff Vale Rly. v. Jenkins [1913 AC 1 : 82 LJKB 49 : 107 LT 564] and Lord Atkinson said thus:

“... all that is necessary is that a reasonable expectation of pecuniary benefit should be entertained by the person who sues. It is quite true that the existence of this expectation is an inference of fact — there must be a basis of fact from which the inference can reasonably be drawn; but I wish to express my emphatic dissent from the proposition that it is necessary that two of the facts without which the inference cannot be drawn are, first, that the deceased earned money in the past, and, second, that he or she contributed to the support of the plaintiff. These are, no doubt, pregnant pieces of evidence, but they are only pieces of evidence; and the necessary inference can, I think, be drawn from circumstances other than and different from them.”

At the same time, it must be held that a mere speculative possibility of benefit is not sufficient. Question whether there exists a reasonable expectation of pecuniary advantage is always a mixed question of fact and law. There are several decided cases on this point, providing the guidelines for determination of compensation in such cases but we do not think it necessary for us to advert, as the claimants had not adduced any materials on the reasonable expectation of pecuniary benefits, which the parents expected. In case of a bright and healthy boy, his performances in the school, it would be easier for the authority to arrive at the compensation amount, which may be different from another sickly, unhealthy, rickety child and bad student, but as has been stated earlier, not an iota of material was produced before Shri Justice Chandrachud to enable him to arrive at a just compensation in such cases and, therefore, he has determined the same on an approximation. Mr Nariman, appearing for TISCO on his own, submitted that the compensation determined for the children of all age groups could be doubled, as in his views also, the determination made is grossly inadequate. Loss of a child to the parents is irreparable, and no amount of money could compensate the parents. Having regard to the environment from which these children were brought, their parents being reasonably well-placed officials of Tata Iron and Steel Company, and on

considering the submission of Mr Nariman, we would direct that the compensation amount for the children between the age group of 5 to 10 years should be three times. In other words, it should be Rs 1.5 lakhs, to which the conventional figure of Rs 50,000 should be added and thus the total amount in each case would be Rs 2.00 lakhs. So far as the children between the age group of 10 to 15 years, they are all students of Class VI to Class X and are children of employees of TISCO. TISCO itself has a tradition that every employee can get one of his children employed in the Company. Having regard to these facts, in their case, the contribution of Rs 12,000 per annum appears to us to be on the lower side and in our considered opinion, the contribution should be Rs 24,000 and instead of 11 multiplier, the appropriate multiplier would be 15. Therefore, the compensation, so calculated on the aforesaid basis should be worked out to Rs 3.60 lakhs, to which an additional sum of Rs 50,000 has to be added, thus making the total amount payable at Rs 4.10 lakhs for each of the claimants of the aforesaid deceased children.”

31. A Coordinate Bench of this Court in ***Varinder Prasad v. BSES Rajdhani Power limited & Ors.***¹¹ was considering a case of compensation under Article 226 of the Constitution of India for death of a nine-year-old boy, Master Ajay Kumar, due to the falling of the *chajja* present in the respondent's premises. The Court, while granting compensation to his parents, calculated the amount which was payable as compensation and made the following observation:-

“As far as pecuniary compensation is concerned, as already explained in Kamla Devi (supra) the income of the parents can be taken as a standard measure for arriving at the expected annual income of the children. The method of calculating the compensation for pecuniary loss of dependency depends upon the potential earning capacity of the deceased Ajay Kumar, had he attained adulthood. As per the affidavit of the petitioner no. 1 dated 15.12.2011, his monthly salary at the time of this incident was Rs. 10,000. At the time of filing of the affidavit, the earnings of petitioner no. 1 were Rs. 30,000/- per month approximately. The petitioners have applied a multiplication factor of 1.5 to counter inflation and erosion of the value of money. Considering the fact that in a span of about four years, there has been a threefold increase in the earnings of petitioner no. 1 from Rs. 10,000/- p.m. to Rs. 30,000/- p.m., in my view, the multiplicand factor of 1.5, to off set the effects of inflation and erosion of the

¹¹ 2012 SCC OnLine Del 339

value of money should be adopted. It can be assumed that Ajay Kumar would have, at least, earned what his father was earning, if not more. Therefore, the multiplicand would be the expected annual income, less what he required for himself. As Ajay would have grown up, his personal expenses would have only risen. The contribution to the household would not have exceeded half of the income. Thus the multiplicand work out to be Rs. 90,000/- i.e. (1,80,000/2). This multiplicand is to be multiplied by the multiplier of 15, in terms of the second Schedule to the Motor Vehicles Act, 1988. This comes out to be a figure of Rs. 13,50,000.”

32. Another Coordinate Bench of this Court, in ***Munni Devi v. Govt. of NCT of Delhi & Anr.***¹² awarded a sum of Rs.10 lakhs with simple interest at the rate of 10 percent per annum to the petitioner as a compensation for the death of her son aged 21 years. The Court, while quantifying the above sum, noted that the deceased therein was pursuing his graduation from Indira Gandhi Open University and thus, keeping in mind the minimum wages, he would have earned at least Rs.10,000/- to Rs.15,000/- a month.

33. This Court, in the case of ***Kamla Devi v. Govt. of NCT of Delhi***¹³ laid down the principle for calculation of monetary compensation in cases of Constitutional torts. The above principle of quantification has been applied by this Court in subsequent decisions in ***Ram Kishore, Subramaniam*** and ***Varinder Prasad***. The relevant paragraphs of the decision in ***Kamla Devi*** are reproduced hereunder as:-

“5. The compensation to be awarded by the Courts, based on international norms and previous decisions of the Supreme Court, comprises of two parts:— (a) ‘standard compensation’ or the so-called ‘conventional amount’ (or sum) for non-pecuniary losses such as loss of consortium, loss of parent, pain and suffering and loss of amenities; and (b) Compensation for pecuniary loss of dependency.

6. The ‘standard compensation’ or the ‘conventional amount has to be revised from time to time to counter inflation and the

¹² 2021 SCC OnLine Del 46

¹³ 2004 SCC OnLine Del 721

consequent erosion of the value of the rupee. Keeping this in mind, in case of death, the standard compensation in 1996 is worked out at Rs. 97,700/-. This needs to be updated for subsequent years on the basis of the Consumer Price Index for Industrial Workers (CPI-IW) brought out by the Labour Bureau, Government of India.

7. Compensation for pecuniary loss of dependency is to be computed on the basis of loss of earnings for which the multiplier method is to be employed. The table given in Schedule II of the MV Act, 1988 cannot be relied upon, however, the appropriate multiplier can be taken therefrom. The multiplicand is the yearly income of the deceased less the amount he would have spent upon himself. This is calculated by dividing the family into units - 2 for each adult member and 1 for each minor. The yearly income is then to be divided by the total number of units to get the value of each unit. The annual dependency loss is then calculated by multiplying the value of each unit by the number of units excluding the two units for the deceased adult member. This becomes the multiplicand and is multiplied by the appropriate multiplier to arrive at the figure for compensation of pecuniary loss of dependency.

8. The total amount paid under 6 and 7 above is to be awarded by the Court along with simple interest thereon calculated on the basis of the inflation rate based on the Consumer Prices as disclosed by the Government of India for the period commencing from the date of death of the deceased till the date of payment by the State”

34. Thus, taking into account the aforesaid decisions, an attempt is being made herein to compute the compensation in accordance with the principles laid down in ***Kamla devi***. The said determination of the amount of compensation payable to the petitioners can be made while classifying the compensation into following two heads:-

A) Standard Compensation

As per the above replicated guidelines, the standard compensation is stated to be 50,000/- in the year 1989 and is to be revised from time to time to counter inflation and the consequential erosion of the value of the Indian National Rupee and the amount needs to be updated for subsequent years on the basis of the Consumer Price Index for Industrial Workers (CPI-IW) brought out by the Labour Bureau, Government of India. In *Kamla Devi*, the (CPI-IW) with respect to the

base year 1982 was 171.

As per the website and annual report of the Labour Bureau, Government of the India, in July 2007 (the month when the petitioners' son died) the CPI (IW) was 131 (with respect to Base Year 2001).

This number must be reworked with regard to the Base Year 1982 using the linking factor. As per the said report, the *All India Linking factor between New Series of Consumer Price Index Numbers for Industrial Workers on base 2001 = 100 and the previous series on base 1982=100 (General Index)* linking factor is 4.63.

Therefore, the CPI (IW) in May 2017 with respect to Base Year 1982, would be calculated as:

$$131 \times 4.63 = 606.53$$

The standard compensation for the present case would be worked out in the following manner:

$$(50,000 \times 606.53) / 171 = 1,77,348 \text{ approx}$$

Therefore, the estimated standard compensation after rounding off is worked out to be 1,77,348/-

B) Loss of Dependency and Pecuniary Losses.

As per *Kamla Devi*, the product of the multiplicand and the multiplier results in the figure of annual loss of dependency. The age of the deceased was 17 years and the multiplier for it, according to the Schedule II of the Motor Vehicles Act, 1988, is 16. The multiplicand is calculated by dividing the family into units - 2 for each adult member and 1 for each minor. Then annual income is divided by the total number of units to get the value of each unit. The annual dependency loss is then calculated by multiplying the value of each unit by the number of units excluding the two units for the deceased adult member. The monthly salary of either of the parents of deceased

can be presumed to be Rs. 3470/- as per the minimum wage rate for an un-skilled worker in Delhi, in 2007 with effect from 01.02.2007 and the annual salary is thus, calculated to be 41,640/-. Since the incident occurred more than a decade ago, a factor of 1.5, to offset the effects of inflation and erosion of the value of money should also be adopted, as has been adopted in *Varinder Prasad*. Thus, the inflated total annual income is estimated at 62,460/-. The family comprises of 10 units, 2 each for the petitioners and the major son and 1 each for 4 minor children, including the deceased as mentioned in the ration card placed on record by the petitioners. Then the value of each unit comes out to be as under:-

$$62,460/10 = 6,246/- \text{ per unit}$$

This value of each unit is then multiplied by the number of units excluding the unit of deceased which is 9 in the present case. Hence, the same comes out to be:-

$$6,246 \times 9 = 56,214 \text{ (multiplicand)}$$

Therefore, the annual loss of dependency is calculated as:-

$$56,214 \text{ (multiplicand)} \times 16 \text{ (multiplier)} = \text{Rs. } 8,99,424/-$$

The total compensation is, thus, computed to be:

$$8,99,424 + 1,77,348 = \text{Rs. } 10,76,772/-$$

35. In view of the aforesaid, the respondent-MCD is directed to pay a lump sum amount of Rs 10,00,000/- alongwith simple interest at the rate of 6% per annum from the date of death i.e., 27.07.2007 till the date of realisation, as compensation to the petitioners for the death of their son within a period of three months from the passing of this judgment. Any failure to comply with the aforesaid direction shall result in the petitioners being entitled for payment of additional simple interest at the rate of 10% per annum, accruing from today.

36. With the above directions, the present writ petition stands disposed of.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

SEPTEMBER 12, 2024/p