

Delhi High Court Shyam Narayan vs Kitty Tours Travels And Ors. on 31 August, 2005 Equivalent citations: IV (2005) ACC 1 Author: P Nandrajog Bench: P Nandrajog ORDER Pradeep Nandrajog, J. 1. Baby Chanda aged 5 years while proceeding to her house after attending school was hit by a Maruti Van bearing No. DL-14-3212 on the road near Mohan Mandir opposite Shop No. 1, Mayapur, Phase-I at about 1.00 p.m. 2. I need not deal with the issue of whether Chanda died due to the rash and negligent act of the driver of the motor vehicle or any other issue for the reason appellants, mother and father of baby Chanda, seek enhancement of the compensation awarded by the Motor Accident Claims Tribunal. 3. By and under the award dated 5.12.2003, a sum of Rs. 1 lac has been awarded to the appellants. While awarding sum of Rs. 1 lac to the appellants, learned MACT has held that income of the deceased child was incapable of assessment or estimation. Recognizing that every parent has a reasonable expectation of financial and moral support from his child, in the absence of any evidence led, learned MACT opined that interest of justice requires that the appellants are compensated with the sum of Rs. 1 lac. 4. Had the Tribunal peeped into the Second Schedule, as per Section 163A of the Motor Vehicles Act, 1988, it would have dawned on the Tribunal that vide serial No. 6, notional income for compensation in case of fatal accidents has been stipulated at Rs. 15,000/- p.a.. 5. In the decision reported as 2005 ACJ 99, Manju Devi and Anr. v. Musafir Paswan and Anr., dealing with the accidental death of a 13 years old boy, while awarding compensation under the Motor Vehicles Act, 1988, Supreme Court took into account the notional income stipulated in the Second Schedule being Rs. 15,000/- p.a.. 6. In the instant case, Baby Chanda was aged 5 years. Age of the appellants as on date of accident was 28 years and 26 years respectively as recorded in the impugned award. Applying a multiplier of 15 as set out in Schedule II which refers to the said multiplier, where age of the victim is up to 15 years, compensation determinable comes to Rs. 15,000 x 15 = Rs. 2,25,000/-. 7. Learned Tribunal has awarded Rs. 1 lac towards loss of expectation of financial and moral support as also loss of company of the child, mental agony, etc. I have found that the parents are entitled to compensation in the sum of Rs. 2.25 lacs on account of loss of financial support from the deceased child. I award a sum of Rs. 50,000/- on account of loss of company of the child as also pain and suffering suffered by them as a result of the untimely death of baby Chanda. Appeal accordingly stands disposed of enhancing the compensation to Rs. 2.75 lacs. 8. The enhanced compensation in the sum of Rs. 1.75 lacs, after giving benefit of Rs. 1 the already awarded and received by the appellants, would be payable jointly and severally in terms of the award. The compensation would be shared half and half by the appellants. Enhanced compensation shall carry interest @ 9% p.a. from the date of claim petition till date of payment. 9. No. costs.