



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(i) FAO-10256-2014 (O&M)

Rabina

...Appellant

VERSUS

Arshad and others

...Respondents

(ii) FAO-10267-2014 (O&M)

Hakam

...Appellant

VERSUS

Arshad and others

...Respondents

(iii) FAO-567-2015 (O&M)

Hakam

...Appellant

VERSUS

Arshad and others

...Respondents

(iv) FAO-1099-2015 (O&M)

Hakam

...Appellant

VERSUS

Arshad and others

...Respondents

Date of Decision: May 02, 2025

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Arjun Attri, Advocate
for the appellants.

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Service of respondent No.1-dispensed with

Mr.Vinod Kumar, Advocate for
Mr.Rajesh Lamba, Advocate
for respondent No.2.

Mr.Digvijay, Advocate for
Mr.Ashish Gupta, Advocate
for respondent No.3

Mr.Pradeep Kumar, Advocate
for respondent No.4.

ARCHANA PURI, J.

These are four appeals, filed by the appellants-claimants, thereby, seeking enhancement of compensation awarded by learned Motor Accident Claims Tribunal, on account of death of Memuna and Sahila, as well as injuries sustained by Hakam and Rabina, in a motor vehicular accident.

Suffice to consider that on 10.03.2012, Hakam along with his wife Memuna, his daughter Sahila as well as sister-in-law Rabina, was proceeding to village Dausras, to the house of his in-laws, on a motorcycle, to attend jalsa (religious function). When they reached near bridge of Rajasthan Canal Shah Chokha, in the meantime, JCB (yellow colour), which was being operated in a rash and negligent manner by respondent No.1-Arshad, tried to pick up 20 feet lengthy iron pipe and moved the same in a negligent manner and directly hit the motorcycle, of which, the deceased and injured were the occupants. All the occupants of the motorcycle, together with the motorcycle had fallen on the ground, as a result whereof, Memuna as well as Sahila had died and Hakam as well as Rabina had sustained

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injuries.

On appraisal of the evidence, brought on record, learned Tribunal had concluded about the accident to have taken place on 10.03.2012, on account of rash and negligent driving of vehicle bearing registration No.UK-09-7679 by respondent No.1-Arshad, as a result whereof, two persons namely, Memuna as well as Sahila had died and Hakam as well as Rabina had sustained injuries.

It is pertinent to mention that none of the respondents, who have been made liable to pay the compensation worked upon, have filed any appeal to challenge the findings so recorded by learned Tribunal. Be it noted that it is only the claimants, who have filed the present appeals for seeking enhancement of the compensation.

In view of the aforesaid conclusion, learned Tribunal, while considering the claim, vis-a-vis, Sahila, daughter of Hakam, who was three years old, at the relevant time, had considered the notional income of deceased as Rs.15,000/- per annum and applied the multiplier of '15' and worked upon the loss of the dependency as Rs.2,25,000/-. Besides the same, claimant Hakam was also held entitled to Rs.50,000/- towards 'loss of love and affection' and another amount of Rs.20,000/- was awarded, on the count of 'last rites'. Thus, the total compensation was worked upon as Rs.2,95,000/-.

Qua death of Memuna, who is wife of Hakam, while considering her to be housewife, learned Tribunal had taken the earnings of deceased as Rs.4500/- per month. 1/3rd was deducted, on the count of 'personal expenses' and the loss of dependency was taken as Rs.3000/- per month.

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Considering the age of the deceased as 21 years, multiplier of '17' was applied and the compensation was worked upon as Rs.6,12,000/-. Another amount of Rs.25,000/- was awarded towards 'last rites'. In total, the compensation was awarded to the extent of Rs.6,37,000/-.

Likewise, while considering the claim of injured Hakam, it was observed that there is no medical bill, coming on record. Even, the copy of MLR Mark P3, has not been properly exhibited and there is no X-ray examination report coming on record. Learned Tribunal had awarded compensation to the extent of Rs.5000/-.

Qua claim of injured Rabina, considering the medical bills Ex.P1 to P121, of the amount of Rs.44,353/-, the compensation to the extent of Rs.44,360/- was awarded, on the count of 'medical expenditure'. Besides the same, an other amount of Rs.10,000/- was awarded towards 'pain and suffering' and Rs.5,000/- on the count of 'transportation'. Thus, in total, the compensation to the extent of Rs.59,360/- was awarded.

The claimants were also held entitled to interest @7.5% from the date of filing of the claim petition till realization. So far as, fastening of liability is concerned, learned Tribunal had concluded that respondents are liable to pay the compensation, jointly and severally, but in the same breath, also observed that respondent No.4-insurance company (being insurer) shall first pay to satisfy the claim and thereupon, respondent No.4 shall have a right to recover the same from respondents No.1 to 3.

However, the 'work on' of the compensation aforesaid, do call for re-computation.

Firstly, let us consider the claim qua Sahila, who was 3 years



old, at the relevant time. The notional income of the child had been taken as Rs.15,000/-. Learned counsel for the appellants assiduously submitted that while taking into consideration the principle, as laid down in '**Kishan Gopal and another v/s Lala and others, 2013(4) RCR (Civil) 276**' and also while making further reference to '**Meena Devi v/s Nunu Chand Mahto @ Nemchand Mahto and others, 2022(4) RCR (Civil) 553**', the notional earnings, taken by learned Tribunal as Rs.15,000/-, is on lower side. In fact, he submits that taking into consideration the date of the accident, in the minimum, the compensation, ought to be worked upon, while taking the notional earnings as Rs.30,000/- per annum.

Before proceeding further, beneficial reference is made to '**State of Haryana and another vs. Jasbir Kaur and others, 2003(4) RCR (Civil) 140**', wherein, it was held as herein given:-

*"It has to be kept in view that the Tribunal constituted under the Act as provided in Section 168 is required to make an award determining the amount of compensation which is to be in the real sense "**damages**" which in turn appears to it to be "just and reasonable". It has to be borne in mind that compensation for loss of limbs or life can hardly be weighed in golden scales. But at the same time it has to be borne in mind that the compensation is not expected to be a windfall for the victim. Statutory provisions clearly indicate that the compensation must be "just" and it cannot be a bonanza; not a source of profit; but the same should not be a pittance. The courts and tribunals have a duty to weigh the various factors and quantify the amount of compensation, which should be just. What would be 'just' compensation is a vexed question. There can be no golden rule applicable to all cases for measuring the value of human life or a limb. Measure of damages cannot be arrived at by precise mathematical calculations. It would depend upon the particular facts and circumstances, and attending peculiar or special features, if any. Every method or mode adopted for assessing compensation has to be considered in the background of 'just' compensation which is the pivotal consideration. Though by use of the expression "which appears to it to be*



*just" a wide discretion is vested in the Tribunal, the determination has to be rational, to be done by a judicious approach and not the outcome of whims, wild guesses and arbitrariness. The expression 'just' denotes equitability, fairness and reasonableness, and non-arbitrary, if it is not so it cannot be just. (See **Helen C. Rebello v. Maharashtra SRTC, 1998(4) RCR (Civil) 177 (SC): 1991(1) SCC 90.**)"*

The determination of damages for loss of human life, is extremely difficult task and it becomes all the more baffling, when the deceased is a child and/or a non-earning person. The future of a child is uncertain. Where the deceased was a child, he was not earning but had a prospect to earn, the question of assessment of compensation, therefore, becomes stiffer. The figure of compensation in such cases, involves a good deal of guesswork.

In ***Lata Wadhwa and others vs. State of Bihar and others, 2001(4) RCR (Civil) 673 (SC)***, the Hon'ble Supreme Court, held that while computing compensation, distinction between deceased children falling within the age group of 5 to 10 years and age group of 10 to 15 years, can be made. Further, it was observed that the compensation determined for the children, for all age group, could be doubled, of what is stated in Schedule II of the Motor Vehicle Act, as the determination was made grossly inadequate and the loss of children is irrecoupable and no amount of money could compensate the parents. The principles laid down in aforesaid case, was made applicable to the facts in the case of ***Krishan Gopal's case (supra)*** and it was thus considered as 'just and reasonable' to take notional income of Rs.30,000/- and applying the multiplier as laid down in ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77*** and observed as herein given:-



*"In view of the aforesaid reasons, it would be just and reasonable for us to take his notional income at Rs.30,000/- and further taking the young age of the parents, namely the mother who was about 36 years old, at the time of accident, by applying the legal principles laid down in the case of **Sarla Verma v. Delhi Transport Corporation**, the multiplier of 15 can be applied to the multiplicand. Thus, $30,000 \times 15 = 4,50,000$ and 50,000/- under conventional heads towards loss of love and affection, funeral expenses, last rites as held in **Kerala SRTS v. Susamma Thomas**, which is referred to in *Lata Wadhwa's* case and the said amount under the conventional heads is awarded even in relation to the death of children between 10 to 15 years old. In this case also we award Rs.50,000/- under conventional heads. In our view, for the aforesaid reasons the said amount would be fair, just and reasonable compensation to be awarded in favour of the appellants."*

In '*Kurvan Ansari alias Kurvan Ali and another v/s Shyam Kishore Murmu and another, 2022 (1) SCC 317*', the Hon'ble Supreme Court was of the view that it was necessary to increase the notional income by taking into account the inflation, devaluation of the rupee and cost of living and the notional income of a child aged about 10 years was considered as Rs.10,000/-.

Before advertng to the case in hand, it is pertinent to mention that in *Krishan Gopal's case (supra)*, the accident had taken place on 19.07.1992. In *Meena Devi's case (supra)*, where the accident had taken place on 29.07.2003, the Hon'ble Supreme Court had considered the case of death of a 12 year child, in a motor vehicular accident and while granting compensation, had observed that the principles laid down in case of *Kishan Gopal's case (supra)*, are aptly applicable to the facts of the case (in hand), and thus, took the notional earnings as Rs.30,000/- including future prospects and applied the multiplier of '15' (in view of the decision of the Hon'ble Apex Court *Sarla Verma's case (supra)* and the loss of dependency



was worked upon to be Rs.4,50,000/- and addition of Rs.50,000/- was made under the conventional heads. The total compensation was worked upon as Rs.5,00,000/-.

Now, advertent to the case in hand, considering the aforesaid case law and also taking into consideration the date of accident, it is just and appropriate to take notional income of deceased Sahila as Rs.30,000/- per annum, including future prospects and after applying the multiplier of '15', the loss of dependency works upon to be Rs.4,50,000/-. Besides the same, as per *National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009*, with the enhancement clause of 10%, after every three years of the pronouncement of the judgment, the compensation, on the count of 'loss of consortium', works out to be, **Rs.48,400/-** and on the similar pattern, on the count 'funeral expenses', the compensation payable, comes to be **Rs.18,150/-**.

Considering the same, the compensation payable to appellant-claimant Hakam, on account of death of Sahila, is re-computed, as herein given:-

Loss of dependency	:	Rs.4,50,000/-
Loss of consortium	:	Rs.48,400/-
Funeral expenses	:	Rs.18,150/-
Total	:	Rs.5,16,550/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.5,16,550-2,95,000=Rs.2,21,550/-**.

Now, let us consider the claim qua death of Memuna, wife of

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Hakam. It is pleaded case that deceased Memuna was working as labourer and she was 30 years old. While working upon the extent of compensation, learned Tribunal, had considered the age of the deceased as 21 years and had applied the multiplier of '17', to the extent of loss of dependency. However, this 'work on' of the compensation, do call for re-determination.

Time and again, it has been held by the Courts to determine the compensation, on the basis of services rendered by the homemaker to the house and on the basis thereof, it is held by the Courts that even though, there is no data for determination of compensation, but however, taking into consideration, the multifarious services rendered by the housewives for managing the entire family, the value of the services should be assessed and compensation be worked upon.

It is necessary to keep in mind that the contribution made by the wife to the house, is invaluable and cannot be computed in terms of money. The gratuitous services rendered by the wife, with true love and affection to the children and her husband and managing the household affairs, in any manner, cannot be equated with the services rendered by others. However, pecuniary estimate has to be made, with regard to the services of the housewife/mother. In this context, it is held by the Courts that the term "**services**" is required to be given a broad meaning and must be construed, while taking into account the loss of personal care and attention, given by the deceased to her children, as a mother and to her husband, as a wife.

Before indulging into re-work of the compensation, it is necessary to point that on account of death of Memuna, the claim petition was filed by her husband Hakam and five children. In total, there were six

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claimants, but in the impugned Award, there is mention made only of husband of deceased Memuna. There is no mention made of the children, who had also filed the claim petition. Further, even the appeal has been filed by Hakam only. But anyhow, the claim of the children, ought to be taken into consideration.

In the claim petition, deceased Memuna is asserted to be 30 years old, but erroneously, learned Tribunal had considered the age of the deceased as 21 years, though, stating about the same to have been taken, on account of recitals of post-mortem report. However, the post-mortem report, which is coming on record, as Mark P8, can be taken into consideration, even though, it has not been duly exhibited, as the proceedings are of summary nature and any process can be adopted by the Courts to grant 'just compensation'. This post-mortem report states the age of the deceased as 27 years and not 21 years, as concluded by learned Tribunal.

However, it is significant to point out that the services rendered by the deceased, ought to be taken into consideration. The claim petition was filed by husband and five children, who were all minor. The number of children, ought to be taken into consideration and consequently, the numerous duties performed by the deceased, while nurturing her home and taking care of husband and children, the value of her services, in any case, cannot be taken at the minimum tier of earnings as that of unskilled worker. At the relevant time, the minimum wages of unskilled labourer was Rs.4847/-. However, considering the number of children, in modest estimate, the earnings of deceased Memuna are taken as Rs.5000/- per month.



Considering age of deceased to be 27 years, addition of 40%, ought to be made, on the count of 'future prospects'. Thus, addition of Rs.2000/- is to be made and after making such addition, the earnings of the deceased, comes to be Rs.7000/- per month. Considering the number of dependents, the deduction of 1/4th is to be made, on the count of 'personal expenses', which comes to be Rs.1750/- and the residue earnings comes to be **Rs.5250/-**, annual whereof is **Rs.63,000/-**.

Even though, an observation has been made about the deceased to be 21 years old by learned Tribunal, but however, the multiplier of '17' so applied, is appropriate, which is the same multiplier as applicable to the age group of 26-30 years. Thus, the loss of dependency works out to be **Rs.63000x17=Rs.10,71,000/-**.

As per *Pranay Sethi's case (supra)*, on the count of 'loss of consortium', the compensation, at present, works out to be Rs.48,400/-. As per *Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130*, all the claimants/dependents are entitled to 'spousal', 'parental' and 'filial' consortium, as required. Thus, on the count of 'loss of consortium', all the claimants i.e. husband and five children, are held entitled to compensation of Rs.48,400/- each i.e. **Rs.48,400x6=Rs.2,90,400/-**. On the same parameters, even, on the counts of 'loss of estate' and 'funeral expenses', the compensation payable, comes to be **Rs.18,150/-**, on each count.

Considering the same, the compensation payable to claimants, on account of death of Memuna, is re-computed, as herein given:-

Loss of dependency	:	Rs.10,71,000/-
Loss of consortium	:	Rs.2,90,400/-



Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Total	:	Rs.13,97,700/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.13,97,700-6,37,000=Rs.7,60,700/-**. Out of the enhanced compensation, as now worked upon i.e. Rs.7,60,700/-, appellant-claimant Hakam is held entitled to **Rs.10,700/-** and other claimants i.e. five children of Memuna are held entitled to **Rs.1,50,000/-** each.

Now, coming to the claim qua injuries sustained by Hakam. Even though, it is asserted about Hakam to have sustained multiple injuries in the accident in question, but however, no evidence, giving the detail of the injuries and manner of treatment undergone by claimant Hakam has been brought on record. Mark P3 is the copy of the MLR, which has been discarded by learned Tribunal, as it has not been duly proved. However, as observed, even this marked document, can be taken into consideration. The perusal of MLR Mark P3 reveals that Hakam had sustained following three injuries:-

- 1. Contusion (rt) clavicular region of size 6 x 5cm, reddish discolouration bone end of fractured clavical left, tenderness present.*
- 2. Contusion of size 6 x 3 cm present over (Rt) side chest, tenderness present.*
- 3. Contusion of size 3 x 3.5 cm present, swelling, superficial tenderness present.*

The perusal of the MLR also reveals that X-ray was advised.



Anyhow, no evidence, as such, has been brought on record about any further treatment undergone by Hakam, qua the injuries sustained by him. No X-ray examination report has been proved. The treatment record also, is not coming on record. Even, no medical bill has come on record. But anyhow, it is quite obvious, soon after the accident, the claimant must have remained under trauma and on account of contusions sustained by him, he must have also remained under pain as well as must have taken special diet for healing process. Considering all these aspects, the compensation of Rs.5,000/- awarded by learned Tribunal, stands enhanced to Rs.10,000/-.

Now, coming to the claim qua injured Rabina. Qua said injured, the medical bills have been proved as Ex.P1 to Ex.P121. The said bills are in the name of claimant Rabina and also co-relate to the date of accident. Copy of the MLR of the said injured has come on record as Mark P2, which reveals about her to have sustained as many as five injuries, which are as follows:-

1. *Laceration wound of size 6 x 1 cm present over frontal bone. Fresh bleeding present, irregular margin.*
2. *Contusion (Rt) orbital region and chest bone reddish bluish, discolouration size 8 x 5 cm.*
3. *Contusion left orbital region, reddish bluish discolouration 3 x 4 cm in size.*
4. *Injury to upper jaw, teeth incision,---- and canines looseout, bleeding present from socket.*
5. *Contusion of size 4 x 2 cm present over lateral -----”*

Even, x-ray examination was advised. However, similar to the case of Hakam, even in this case, no treatment record has been proved. There is no evidence about the x-ray examination having conducted and also



the treatment undergone by her. But however, the fact remains that Rabina had sustained injuries, as she was occupant of the ill-fated motorcycle, at the relevant time and medical bills have also been proved on record.

Besides the medical bills of Rs.44,360/-, taking into consideration 'pain and suffering' and also 'transportation', used during the course of her treatment as well as intake of 'special diet' for healing process, this Court, considers it appropriate, to award an amount of Rs.30,000/-, over and above the compensation awarded by learned Tribunal. Thus, the total compensation works out to be Rs.59,360+30,000=**Rs.89,360/-**.

Further, it is pertinent to mention that from the evidence, coming on record, it stands established that respondent No.2-Sawan Singh Panwar is the registered owner of offending vehicle bearing registration No.UK-09-7679. He had taken the plea about the offending vehicle to have been sold to respondent No.3-Mehmood, vide sale document Ex.P13. However, the registration certificate of the vehicle Ex.R3, coming forth, reveals about the said vehicle to be still registered in the name of respondent No.2 and in these circumstances, learned counsel for respondent No.2 submits that learned Tribunal had erroneously saddled the liability upon him also. He also questioned the right of recovery granted to the insurance company.

However, no sustenance, as such, can be drawn by the registered owner of the offending vehicle, on the basis of the document of sale Ex.P13.

The definition of 'owner', which is provided under the Motor Vehicle Act, as given in Section 2(30), is reproduced, as herein given:-

“owner means a person in whose name a motor vehicle stands registered and where such person is a minor, the guardian of



such minor, and in relation to a motor vehicle which is the subject of a hire-purchase, agreement, or an agreement of lease or an agreement of hypothecation, the person in possession of the vehicle under that agreement;

Keeping in view the definition of ownership, as aforesaid, it is essential to make reference to the decision rendered by the Hon'ble Supreme Court in ***Naveen Kumar vs. Vijay Kumar and others, 2018(2) RCR(Civil) 74***, wherein, while dealing with the question of sale of vehicle and also about the manner of fastening liability, upon the registered owner or subsequent owner, it was held as herein given:-

12. The consistent thread of reasoning which emerges from the above decisions is that in view of the definition of the expression 'owner' in Section 2(30), it is the person in whose name the motor vehicle stands registered who, for the purposes of the Act, would be treated as the 'owner'. However, where a person is a minor, the guardian of the minor would be treated as the owner. Where a motor vehicle is subject to an agreement of hire purchase, lease or hypothecation, the person in possession of the vehicle under that agreement is treated as the owner. In a situation such as the present where the registered owner has purported to transfer the vehicle but continues to be reflected in the records of the registering authority as the owner of the vehicle, he would not stand absolved of liability. Parliament has consciously introduced the definition of the expression 'owner' in Section 2(30), making a departure from the provisions of Section 2(19) in the earlier Act of 1939. The principle underlying the provisions of Section 2(30) is that the victim of a motor accident or, in the case of a death, the legal heirs of the deceased victim should not be left in a state of uncertainty. A claimant for compensation ought not to be burdened with following a trail of successive transfers, which



are not registered with the registering authority. To hold otherwise would be to defeat the salutary object and purpose of the Act. Hence, the interpretation to be placed must facilitate the fulfillment of the object of the law. In the present case, the First respondent was the 'owner' of the vehicle involved in the accident within the meaning of Section 2(30). The liability to pay compensation stands fastened upon him. Admittedly, the vehicle was uninsured. The High Court has proceeded upon a misconstruction of the judgments of this Court in Reshma and Purnya Kala Devi.

13. The submission of the Petitioner is that a failure to intimate the transfer will only result in a fine under Section 50(3) but will not invalidate the transfer of the vehicle. In Dr. T. V. Jose, this Court observed that there can be transfer of title by payment of consideration and delivery of the car. But for the purposes of the Act, the person whose name is reflected in the records of the registering authority is the owner. The owner within the meaning of Section 2(30) is liable to compensate. The mandate of the law must be fulfilled

Consequently, the Hon'ble Supreme Court had upheld the decision rendered by learned Tribunal, whereby, the registered owner was held to be jointly and severally liable, together with the driver of the vehicle involved in the accident.

Further also, reference is also made to the decision rendered by Hon'ble Supreme Court in ***Surendra Kumar Bhilawe vs. The New India Assurance Company Limited, 2020 AIR (Supreme Court) 3149***, wherein, in view of the definition of the expression 'owner' in Section 2(30) of the Motor Vehicles Act, it was held that the person, in whose name the motor vehicle stands registered, for the purposes of the Act, would be treated as the



'owner'.

Also, reference is made to decision rendered in *Parkash Chand Daga vs. Saveta Sharma and others, 2019(1) RCR (Civil) 372*, wherein the Hon'ble Supreme Court held that so long as the name of owner continues in RTO record, he remains liable to third person. Therein also, reliance was placed upon *Naveen Kumar's case (supra)*. Also further, reference was made to *T.V.Jose 2002(1) RCR (Civil), 120*, wherein, the Court that 'there can be transfer of the title by payment of consideration and delivery of the car. But for the purpose of the Act, the person, whose name is reflected in the records of the Registering Authority is the owner. The owner within the meaning of Section 2(30) is liable to compensate. The mandate of the law must be fulfilled'.

Further, while summing up, it was held that the law is thus well settled and can be summarised, as herein given:-

“Even though in law there would be a transfer of ownership of the vehicle, that, by itself, would not absolve the party, in whose name the vehicle stands in RTO records, from liability to a third person Merely because the vehicle was transferred does not mean that such registered owner stands absolved of his liability to a third person. So long as his name continues in RTO records, he remains liable to a third person.

In the backdrop of the aforesaid case law, keeping in view the definition of 'owner' as given in Section 2(30) of the ibid Act, it is the registered owner, who continues to remain liable, despite the alleged sale of the offending vehicle.

In the light of the same, the liability to pay the compensation, as



worked upon by learned Tribunal, is to be fastened only upon respondents No.1, 2 and 4, in the capacity of being driver, owner and insurer of the offending vehicle. However, the insurance company shall not be entitled to recovery rights, as erroneously observed by learned Tribunal.

It is further ordered that on the enhanced amount of compensation, in each case, the appellants-claimants shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the present appeal, till realization of the enhanced amount of compensation.

With the above observations, all the appeals stand allowed.

The pending civil misc. applications, if any, shall stand disposed of.

May 02, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No