

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 9013 OF 2003

DAYAWANTI DEVI & ANR. Appellant (s)

VERSUS

NATIONAL INSURANCE CO. LTD. & ANR. Respondent(s)

Date: 05/05/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE MUKUNDKAM SHARMA  
HON'BLE MR. JUSTICE R.M. LODHA

For Appellant(s) Mr. Hari Lal Agarwal, Sr. Adv.  
Mr. Prashant Kumar, Adv.

For Respondent(s) Mr. Pramod Dayal, Adv.  
Mr. Nikunj Dayal, Adv.

UPON hearing counsel the Court made the following  
O R D E R

The Civil Appeal is allowed in terms of  
the signed order.

(Neetu Sachdeva)  
Sr. P. A.

(Sneh Bala Mehra)  
Court Master

(signed order is placed on the file)  
IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 9013 OF 2003

DAYAWANTI DEVI & ANR. Appellant (s)

VERSUS

NATIONAL INSURANCE CO. LTD. & ANR. Respondent(s)

O R D E R

This appeal is directed against the judgment and  
order dated 17.9.2002 of the Patna High Court, whereby  
the High Court modified the award passed by the Motor  
Accident Claims Tribunal and assessed the compensation  
to be awarded to the appellant at Rs.1,70,560/- instead  
of Rs.2,40,000/-, which was assessed by the Tribunal.

Learned counsel appearing for the appellants has submitted before us that the order passed by the High Court is unsustainable. According to him, the income of the deceased at the time of his death as assessed by the Tribunal was interfered with by the High Court unnecessarily and without any justification. In order to appreciate the aforesaid contention, we have gone through the record of the case including the evidence adduced. The Tribunal relied upon the evidence adduced on behalf of the claimants that the deceased received an appointment letter appointing him as Assistant Teacher at the pay scale of Rs.1640-2900/-. It was also held by the Tribunal that since he was going to get the aforesaid pay scale of Rs.1640/- on joining the aforesaid post, he would have also in the natural course been entitled to receive Dearness Allowance which is always added to the basic pay. The Tribunal found and held that the monthly income of the deceased was not less than Rs.3,000/- per month and, therefore, his yearly income was near about Rs.36,000/-. After deducting one-third from the said amount as the personal expenditure of the deceased, his yearly contribution towards the family was held to be Rs.24,000/-. The aforesaid sum was multiplied by ten and assessment of his income was made at Rs.2,40,000/-.

The High Court interfered with the aforesaid order passed by the Tribunal on the ground that there was no evidence on record to indicate that any Dearness Allowance was payable to the deceased. The aforesaid findings of the High Court cannot be sustained, in view of the fact that it is common knowledge that in Government service when a particular pay scale is provided, the benefit of Dearness Allowance is always attached thereto. Since the deceased was appointed as

Assistant Teacher by a valid order issued by the Government and since he would have received on joining the basic pay of Rs.1640/-, he was also entitled to receive Dearness Allowance which is always payable in addition  
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to the basic pay of a Government employee.

Considering the said fact, we are of the opinion that the High Court was not justified in interfering with the award of the Tribunal. We, therefore, set aside the order passed by the High Court and restore the order passed by the Tribunal. The amount of compensation, as assessed by the Tribunal, if not already paid, be paid within four weeks from today, failing which the interest @ 9% shall be payable by the Insurance Company from the date of realisation till the date of payment.

The Civil Appeal is allowed accordingly.

.....J.  
(DR. MUKUNDAKAM SHARMA)

NEW DELHI  
MAY 5, 2010

.....J.  
(R.M. LODHA)