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SLP(C)No. 14218 OF 2000

ITEM No.1

Court No. 7

SECTION XI  
A/N MATTER

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

Petition(s) for Special Leave to Appeal (Civil) No.14218/2000

(From the judgement and order dated 11/05/2000 in FAO 1157/99  
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

ASRAR HUSSAIN KHAN & ANR.

Petitioner (s)

VERSUS

NEW INDIA ASSURANCE COMPANY LTD.

Respondent (s)

(With prayer for interim relief)  
( For Final Disposal )

Date : 20/09/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU  
HON'BLE MR. JUSTICE DORAISWAMY RAJU

For Petitioner (s) Mr. Rashid Saeed, Adv.  
Mr. Arvind Kr. Sukla, Adv.  
Mr. R.D. Upadhyay, Adv.

For Respondent (s) Mr. Ravi Bakshi, Adv.  
Mr. Varinder Kumar, Adv.  
Mr. Roopesh Kanwar, Adv.  
Mr. Y.K. Prasad, Adv.

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

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Leave granted.  
The appeal is allowed in part. No order as to  
costs.

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Charanjit

[ Om Prakash ]  
Court Master

[ Signed order is placed on the file ]

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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6576/2001@@  
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[ arising out of SLP(C) 14218/2000 ]

Asrar Hussain Khan & Anr. .. Appellants

Vs.

New India Assurance Company Ltd. .. Respondent

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Leave granted.

This appeal arises out of a claim made in a sum of Rs. 10,27,500/- with interest at 24% per annum from date of accident till payment before the Motor Accidents Claims Tribunal ( for short ' the Tribunal' ) alleging that Suleman Khan- son of the first appellant before us died in an accident caused by rash and negligent driving of a bus near Dcora Bridge on Pilibhit Bareilly Road.

After inquiring into the matter the Tribunal found that he was working in a finance company and he had been receiving a sum of Rs, 2,000/- per month by way of income and no other evidence was produced to show that he was earning income from agriculture or he had any other source of income. The Tribunal, however, in calculating the amount that would be contributed by him towards his family felt that the impending marriage of the deceased  
2/-

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should also be taken into consideration and thereby excluded a sum of Rs. 8,000/- per annum and also excluded a sum of Rs. 8,000/- which would be spent by him on himself. That way the Tribunal found that his contribution towards the appellants would only be of Rs.8,000/- and awarded a compensation of Rs. 88,000/- with interest at 12% per annum from date of filing of application. When the award was made in the manner stated above, the matter was carried in appeal to the High Court without success. Hence this appeal by special leave.

At the time of the death, the deceased was not married and therefore, the Tribunal ought not to have considered as if he was married. The Tribunal ought to have found his contribution towards the family would be at least Rs.16000/- per annum. Calculated on that basis the amount awarded by the Tribunal would have to be doubled, thereby award of a sum of Rs.1,76,000/- by way of compensation which will carry an interest at the rate of 12 per cent per annum from the date of the filing of the

3/-

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application before the Tribunal be paid to the appellants. The award made by the Tribunal, as affirmed, by the High Court shall stand modified to the extent indicated by us. The appeal shall stand allowed in part accordingly. No order as to costs.

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[ S. RAJENDRA BABU ]@@  
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[ DORAISWAMY RAJU ]@@  
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New Delhi,@@  
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September 20, 2001 @@  
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