

LALITA DEVI & ORS. Appellants
Through: Mr. A.C. David, Adv.
versus

MANJIT SINGH & ORS. Respondents
Through: Mr. Vishnu Mehra and
Mr. R.L. Kadamb, Adv. for
NIC

CORAM :-
THE HON'BLE MR. JUSTICE J.R. MIDHA

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| 1. | Whether Reporters of Local papers may be allowed to see the Judgment? | YES |
| 2. | To be referred to the Reporter or not? | YES |
| 3. | Whether the judgment should be reported in the Digest? | YES |

JUDGMENT (Oral)

1. The appellants have challenged the award of the learned Tribunal whereby compensation of Rs.1,75,000/- has been awarded to them. The appellants seek enhancement of the award amount.

2. The accident dated 27th June, 1999 resulted in the death of Vipin Kumar. The deceased was survived by his widow, three daughters and one minor son, who filed the claim petition before the learned Tribunal.

3. The deceased was aged 35 years at the time of the accident and was a vegetable seller. The appellants claimed the income of the deceased to be Rs.3,000/- per month.

However, in the absence of any documentary evidence of proof of income, the learned Tribunal took the income of the deceased to be Rs.15,000/- per annum. $\frac{1}{3}$ was deducted towards personal expenses of the deceased and the multiplier of 16 was applied to compute the loss of dependency at Rs.1,60,000/-. Rs.5,000/- has been awarded towards funeral expenses and Rs.10,000/- has been towards loss of love, affection and company. Total compensation awarded is Rs.1,75,000/-.

4. The learned counsel for the appellant urged the following grounds at the time of the hearing of this appeal:-

- (i) The income of the deceased be taken according to the minimum wages as on the date of the accident.
- (ii) The increase in minimum wages due to inflation and increase in price index be taken into consideration.
- (iii) The personal expenses of the deceased be reduced from $\frac{1}{3}$ to $\frac{1}{4}$ considering that the deceased has left behind five dependents.
- (iv) Compensation be awarded for loss of estate.
- (v) Compensation be also awarded for loss of consortium.

5. It is well settled that in the absence of any documentary proof of income, the minimum wages are to be taken into consideration to compute the compensation. The

minimum wages for unskilled worker on the date of the accident was Rs.1,495/-. The learned Tribunal, therefore, erred in taking the income of the deceased to be Rs.15,000/- per annum. It is also well settled by a catena of judgments of this Court in the cases of **Kanwar Devi vs. Bansal Roadways, 2008 ACJ 2182, Lekh Raj vs Suram Singh, 2007 ACJ 2165, National Insurance Company Limited vs. Renu Devi III (2008) ACC 134, and UPSRTC vs. Munni Devi**, MAC.APP.No.310/2007 decided on 28.07.2008 that the judicial notice is to be taken of increase in minimum wages to meet the inflation and increase in price index. This Court has taken the view that the minimum wages get doubled over the period of 10 years and increase in minimum wages is not akin to future prospects. The income of the deceased for computation of compensation is taken as average of minimum wages and its double. Following the aforesaid judgments, the income of the deceased for computation of compensation is taken to be Rs.2,242.50 [(Rs.1,495 + Rs.2,990 / 2)].

6. The Hon'ble Supreme Court in the recent judgment in the case **Sarla Verma Vs. DTC, 2009 (6) Scale 129** has held that personal expenses of the deceased have to be taken to be 1/4 where the deceased has left behind 4 to 6 dependants. In the present case, the deceased has left behind five dependants. Following the judgment of the Hon'ble Supreme Court, personal expenses of the deceased

are reduced from $\frac{1}{3}$ to $\frac{1}{4}$. The learned Tribunal has not awarded any amount towards loss of consortium and loss of estate. Rs.10,000/- is awarded towards loss of consortium and Rs.10,000/- towards loss of estate.

7. Taking income of the deceased to be Rs.2,242.50, deducting $\frac{1}{4}$ towards personal expenses of the deceased and applying the multiplier of 16 and adding Rs.5,000/- towards funeral expenses, Rs.10,000/- towards loss of love and affection, Rs.10,000/- towards loss of consortium and Rs.10,000/- towards loss of estate, the total compensation is computed as Rs.3,57,920/- $[(Rs.2,242.50 \times \frac{3}{4} \times 12 \times 16) + Rs.5,000 + Rs.10,000 + Rs.10,000 + Rs.10,000]$.

8. The appeal is allowed and the award amount is enhanced from Rs.1,75,000/- to Rs.3,57,920/-.

9. The learned Tribunal awarded interest @ 9% per annum, which is not disturbed on the original award amount of Rs.1,75,000/-. However, rate of interest on the enhanced award amount shall be 7.5% per annum from the date of filing of the petition till date of deposit.

10. The enhanced award amount along with interest be deposited by respondent No.3 with UCO Bank A/c. Lalita Devi within 30 days.

11. The order with respect to the disbursement of the enhanced award amount shall be passed on the next date of hearing after examining the appellants who are directed to remain present on the next date of hearing.

12. List for directions on 29th October, 2009.
13. Copy of this order be given dasti to learned counsel for both the parties.

AUGUST 27, 2009
s.pal

J.R. MIDHA, J