

IN THE HIGH COURT OF DELHI AT NEW DELHI**+ MAC.APP.No.237/2004**

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Date of decision: 21st October, 2009

ASHARFI DEVI & ORS. Appellants
Through : Mr. Y.P. Laroya, Adv.

versus

KISHORI LAL & ORS. Respondents
Through : Mr. Amit Sahni, Adv. for R-1.
Mr. Sameer Nandwani, Adv.
for R-3.

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.1,80,000/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

2. The accident dated 3rd May, 1999 resulted in the death of Ram Niwas. The deceased was survived by his widow, three minor sons, one daughter and mother who filed the claim petition before the learned Tribunal.

3. The deceased was working as a mason at the time of the accident. The learned Tribunal took the minimum wages of

Rs.1,000/- per month for skilled worker. After considering the future prospects, the learned Tribunal took the income of the deceased at Rs.1,500/- per month. $\frac{1}{3}^{\text{rd}}$ was deducted towards the personal expenses of the deceased and the multiplier of 15 was applied to compute the loss of dependency at Rs.1,80,000/-. No compensation has been awarded towards loss of consortium, loss of love and affection, loss of estate and funeral expenses.

4. The learned counsel for the appellant submits that the personal expenses of the deceased be reduced from $\frac{1}{3}^{\text{rd}}$ to $\frac{1}{4}^{\text{th}}$ considering that the deceased left behind four legal representatives.

5. The learned counsel for the appellants also seek compensation towards loss of consortium, loss of love and affection, loss of estate and funeral expenses.

6. It is well settled by the recent judgment of the Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) Scale 129** that $\frac{1}{4}^{\text{th}}$ has to be deducted towards personal expenses of the deceased who has left behind 4 to 6 legal representatives.

7. Following the aforesaid judgment, the personal expenses of the deceased are reduced from $\frac{1}{3}^{\text{rd}}$ to $\frac{1}{4}^{\text{th}}$. Applying the multiplier of 15, loss of dependency is computed to be Rs.2,02,500/- ($\text{Rs.1,500} \times \frac{3}{4} \times 12 \times 15$). Rs.10,000/- is awarded towards loss of consortium, Rs.10,000/- is awarded towards loss of love and affection, Rs.5,000/- towards loss of estate and Rs.5,000/- towards funeral expenses. The total compensation is

computed to be Rs.2,32,500/- (Rs.2,02,500 + Rs.10,000 + Rs.10,000 + Rs.5,000 + Rs.5,000).

8. The appeal is allowed and the award amount is enhanced from Rs.1,80,000/- to Rs.2,32,500/-. The learned Tribunal has awarded interest @ 9% per annum which is not disturbed on the original award amount of Rs.1,80,000/-. However, on the enhanced award amount, the rate of interest shall be 7.5% from the date of the filing of the petition till realization.

9. The respondent No.3 is directed to deposit the enhanced award amount along with interest with UCO Bank A/c Asharfi Devi within 35 days. The order with respect to disbursement of the award amount shall be passed on the next date of hearing after examining the appellants who are directed to remain present in the Court on the next date of hearing.

10. List for directions on 1st December, 2009.

11. Copy of this order be given 'Dasti' to learned counsel for both the parties under the signature of Court Master.

J.R. MIDHA, J

OCTOBER 21, 2009
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