

IN THE HIGH COURT OF DELHI AT NEW DELHI**+ MAC.APP.No.118/2008**

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Date of decision: 3rd September, 2009

NATIONAL INSURANCE CO. LTD. Appellant
Through : Mr. Manoj Ranjan Sinha, Adv.

versus

NISHA DEVI & ORS. Respondents
Through : Mr. J.S. Kanwar, Adv. for R-1
to 6.

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 appellant has challenged the award of the learned Tribunal whereby compensation of Rs.7,60,264/- has been awarded to claimants/respondents No.1 to 6.

2. The accident dated 14th April, 2001 resulted in the death of Binesh Tyagi. The deceased was survived by his widow, two sons, one daughter and parents who filed the claim petition before the learned Tribunal.

3. The deceased was aged 28 years at the time of the accident and was carrying on the business of manufacturing electronic goods. However, in the absence of any documentary evidence to prove the income, the learned Tribunal took the minimum wages

of Rs.2,579/- in respect of an unskilled worker and increased it to Rs.3,025/- per month by taking the average of minimum wages at the time of the accident and at the time of award. The learned Tribunal further took the future prospects into consideration by taking the average of Rs.3,025/- and its double. The learned Tribunal deducted 1/4th towards the personal expenses of the deceased and applied the multiplier of 18 to compute the loss of dependency at Rs.7,25,264/-. Rs.30,000/- has been awarded towards loss of love and affection and consortium and Rs.5,000/- towards funeral expenses. The total compensation awarded is Rs.7,60,300/-.

4. The only ground urged by learned counsel for the appellant at the time of hearing of this appeal is that the increase in minimum wages has been taken twice which is not permissible in law.

5. It is well settled by 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 be taken of increase in minimum wages due to inflation and rise in price index and that the minimum wages get doubled over the period of 10 years and the average of minimum wages and its double be taken to compute the income of the deceased for computation of compensation. Following the aforesaid judgments of this Court,

the income of the deceased is computed by taking the average of minimum wages of Rs.2,579/- at the time of the accident and its double which comes to Rs.3,868.50 $[(Rs.2,579 + Rs.5,158)/2]$. The income of the deceased for computation of compensation is, therefore, reduced from Rs.4,538/- to Rs.3,868.50.

6. The learned Tribunal has applied the multiplier of 18 according to the Second Schedule of the Motor Vehicles Act. However, in the recent judgment of the Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation** (supra), the Hon'ble Supreme Court has held the appropriate multiplier at the age of 28 years to be 17. The multiplier is, therefore, reduced from 18 to 17.

7. Taking the income of the deceased to be Rs.3,868.50, deducting $1/4^{th}$ towards the personal expenses of the deceased and applying the multiplier of 17, the loss of dependency is computed to be Rs.5,91,881/- $(Rs.3,868.50 \times 12 \times 17 \times 3/4)$. The learned Tribunal has not awarded any compensation for loss of estate. Rs.10,000/- is awarded towards loss of estate. Adding Rs.30,000/- towards loss of love and affection and consortium, Rs.5,000/- towards funeral expenses and Rs.10,000/- towards loss of estate, the total compensation is computed to be Rs.6,36,881/- $(Rs.5,91,881 + Rs.10,000 + Rs.30,000 + Rs.5,000)$.

8. The learned Tribunal has awarded interest @7% per annum from the date of filing of the petition till realization. Following the judgment of the Hon'ble Supreme Court in the case of **Dharampal vs. U.P. State Road Transport Corporation, III**

2008 ACC (1) SC, the rate of interest is enhanced from 7% to 7.5% per annum.

9. The appeal is allowed and the award amount is reduced from Rs.7,60,264/- to Rs.6,36,881/- along with interest @7.5% per annum from the date of filing of the petition till realization.

10. The appellant has deposited a sum of Rs.5,00,000/- with the Registrar General of this Court in terms of the order dated 22nd February, 2008 and the said amount has already been released to claimants/respondents No.1 to 6. The appellant is directed to deposit the remaining award amount along with interest without adjusting statutory amount of Rs.25,000/- filed along with this appeal with the learned Tribunal within 30 days. Upon such deposit being made, the learned Tribunal is directed to release the same to the claimants in the same manner and proportion as in the original award.

11. Upon deposit of the remaining award amount along with interest, the appellant shall submit the proof of deposit with the Registry whereupon the Registry shall release the statutory amount of Rs.25,000/- to the appellant without any further order from this Court.

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

J.R. MIDHA, J

SEPTEMBER 03, 2009

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