

IN THE HIGH COURT OF DELHI AT NEW DELHI**+ MAC.APP.No.163/2009**

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Date of decision: 27th August, 2009

DALU RAM & ORS. Appellants
 Through: Mr. Suresh Kr. Sharma and
 Mr. Manoj Kumar Sharma, Advs.

versus

VINITA BERI & ORS. Respondents
 Through: Mr. S.L. Gupta and Mr. R.A. Gupta,
 Advocates for the Insurance Co.

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

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.5,53,232/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

2. The accident dated 27th November, 2005 resulted in the death of Narender Sharma. The deceased was survived by his parents, two unmarried sisters and brother, who filed the claim petition before the learned Tribunal.

3. The deceased was aged 24 years at the time of the accident and was working as Supervisor with M/s. Sita Composers Pvt. Ltd. earning Rs.7,500/- per month. The appellants proved the salary certificate, Ex.PW-1/1 issued by the employer. The appellants examined the employer, PW-2, who proved the salary certificate and also the attendance register. However, learned Tribunal disregarded the evidence on the ground that the appointment letter and other records have not been produced before the learned Tribunal. The learned Tribunal took the minimum wages into consideration and deducted 1/3 towards personal expenses of the deceased and applied the multiplier of 11 to compute the loss of dependency at Rs.5,18,232/-. Rs. 10,000/- has been awarded towards funeral expenses and Rs.25,000/- towards loss of love and affection. Total compensation awarded is Rs.5,53,232/-.

4. The learned counsel for the appellant has urged two grounds at the time of the appeal. The first ground is that the income of the deceased should be taken as Rs.7,500/- and future prospects be taken into consideration. The second ground of challenge is that the compensation be also awarded for loss of estate.

5. With respect to the income of the deceased, there is sufficient evidence on record that the deceased was working as a Supervisor and was earning Rs.7,500/- per month. The same has been proved by Ex.PW-1/1 and Ex.PW-2/A and the testimony of PW-2. The income of the deceased is, therefore, taken to be

Rs.7,500/-. However, the future prospects are not taken into consideration in view of the recent judgment of the Hon'ble Supreme Court in the case **Sarla Verma Vs. DTC, 2009 (6) Scale 129.**

6. The learned Tribunal has deducted 1/3rd towards personal expenses of the deceased. However, the appropriate deduction according to the recent judgment of the Hon'ble Supreme Court in the case **Sarla Verma Vs. DTC (Supra)** is 1/2. The personal expenses of the deceased are increased from 1/3rd to 1/2. Deducting 1/2 towards personal expenses of the deceased, the loss of dependency of the appellant is taken to be Rs.3,750/-.

7. The learned Tribunal has applied the multiplier of 11. The age of mother of the appellant at the time of the accident was 49 years and, therefore, the appropriate multiplier according to the age of the mother is 13. Taking the income of the deceased to be Rs.7,500/-, deducting 1/2 towards personal expenses of the deceased and applying the multiplier of 13, the total compensation is computed to be Rs.5,85,000/-.

8. The learned Tribunal has not awarded any amount towards loss of estate. Rs.10,000/- is awarded towards loss of estate. The total compensation is computed to be Rs.6,30,000/- (Rs.5,85,000 + Rs.10,000 + Rs.25,000 + Rs.10,000).

9. The appeal is allowed and the award amount is enhanced from Rs.5,53,232/- to Rs.6,30,000/- along with interest @ 7.5% per annum. The enhanced award amount along with interest be deposited by respondent No.3 with the learned Tribunal within a

period of 30 days.

10. Upon the said amount being deposited, the learned Tribunal is directed to release the same to the appellant without any restriction of fixed deposit.

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

AUGUST 27, 2009
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J.R. MIDHA, J