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*IN THE HIGH COURT OF DELHI AT NEW DELHI

+ MAC.APP.No.150/2009

Date of Decision: 2nd July, 2009

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PUSHPA RANI & ORS. Appellants
Through : Mr. Y.R. Sharma, Adv.

versus

HARPAL SINGH & ORS. Respondents
Through : Mr. S.L. Gupta, 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.7,85,000/- has been awarded to the appellants. The appellants seek enhancement of the award amount.
2. The accident dated 8th December, 2006 resulted in the death of Laxman Dass aged 49 years working as a Constable with Ministry of Home Affairs.
3. The deceased was survived by his widow aged 43 years, unmarried daughter aged 23 years and two sons aged 18 and 16 years who filed the claim petition before the learned Tribunal.

4. Appellant No.1 is the widow of the deceased who appeared in the witness box as PW-1 and proved the age, occupation and income of the deceased husband. Ex.PW1/1 is the death certificate, Ex.PW1/2 is the ration card, Ex.PW1/3 and Ex.PW1/4 are the election identity cards, Ex.PW1/5 is the identity card of Ministry of Home Affairs and Ex.PW1/6 is the pay slip for the month of November, 2006. Ex.PW1/5 bears the date of birth of the deceased as 27th September, 1957 according to which the age of the deceased was 49 years at the time of the accident.

5. The Section Officer from Ministry of Home Affairs appeared as PW-2 and he produced the statement of pay and allowances of the deceased for the period 1st June, 2006 to 8th December, 2006 which were exhibited as Ex.PW2/A. The salary of the deceased as per Ex.PW2/A at the time of his death was Rs.9,008/-.

6. The learned Tribunal took the income of the deceased as Rs.8,400/-. 1/3rd was deducted towards the personal expenses of the deceased and the multiplier of 11 was applied to compute the loss of dependency at Rs.7,40,000/-. Rs.35,000/- has been awarded towards loss of love and affection and consortium, Rs.5,000/- towards funeral expenses and Rs.5,000/- towards loss of estate. The total compensation awarded is Rs.7,85,000/-.

7. The appellant has urged the following grounds at the time of hearing of this appeal:-

- (i) The income of the deceased at the time of his death be taken as Rs.9,008/- as per Ex.PW2/A.
- (ii) The future prospects be taken into consideration.
- (iii) The personal expenses of the deceased be taken as 1/4th instead of 1/3rd.
- (iv) The multiplier of 13 should be applied instead of 11.

8. The income of the deceased at the time of his death was Rs.9,008/- as per Ex.PW2/A. The deceased expired on 8th December, 2006. The salary of the deceased from June, 2006 to December, 2006 is given in Ex.PW2/A. The salary in June, 2006 was Rs.8,670/- which was increased to Rs.9,008/- in the July, 2006. The salary in the month of August, 2006, September, 2006, October, 2006 and November, 2006 was consistently Rs.9,008/-. For eight days of December, 2006, the salary of the deceased was Rs.2,324/- based on the monthly salary of Rs.9,008/-.

9. The learned Tribunal was in error in taking the income of the deceased as Rs.8,400/-. The income of the deceased is taken to be Rs.9,008/- for computation of compensation.

10. The learned Tribunal has not awarded any future prospects to the deceased. The deceased had a permanent job and was below 50 years and, therefore, the future prospects of the deceased are computed by adding 30% of the income following the recent judgment of the Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) Scale 129** decided on

15th April, 2009. Mr. S.L. Gupta, learned counsel for respondent No.3 submits that future prospects should not be taken into consideration because the appellants are getting the family pension. However, the Hon'ble Supreme Court in the aforesaid judgment of **Sarla Verma** (supra) has not carved out any exception in this regard and, therefore, the submission of Mr. Gupta is not accepted. The income of the deceased after taking the future prospects into consideration is computed to be Rs.11,710/-(Rs.9,008 + 30% of Rs.9,008/-).

11. The learned Tribunal has deducted 1/3rd of the income of the deceased as his personal expenses. The deceased has left behind four legal representatives, namely, widow, daughter and two sons and, therefore, as per the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma** (supra), the personal expenses of the deceased are taken to be 1/4 instead of 1/3.

12. The learned Tribunal has applied the multiplier of 11. However, the appropriate multiplier as per the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma** (supra) is 13 considering the age of the deceased to be 49 years. The multiplier is, therefore, increased from 11 to 13.

13. The appellants are entitled to the loss of dependency of Rs.13,70,007/- (Rs.9,008 + 30% = Rs.11,710 – 2,927.9 X 12 X 13) taking the salary of Rs.9,008/-, adding 30% towards future prospects, deducting 1/4th towards personal expenses

of the deceased and applying the multiplier of 13. The computation of the compensation on the above basis is as under:-

(a)	Compensation for loss of dependency	:	Rs.13,70,007/-
(b)	Compensation for consortium and love and affection.	:	Rs. 35,000/-
(c)	Compensation for funeral expenses	:	Rs. 5,000/-
(d)	Compensation for loss of estate	:	Rs. 5,000/-
Total Compensation			: Rs.14,15,007/-

14. The appeal is allowed and the compensation is enhanced from Rs.7,85,000/- to Rs.14,15,007/- along with interest @7.5% from the date of filing of the petition till realization.

15. Respondent No.3 is directed to deposit the enhanced amount along with up to date interest by means of an account payee cheque in the name of UCO Bank A/c. Pushpa Rani, Delhi High Court Branch, New Delhi. The shares of the appellants in the award amount shall be as under:-

Appellant No.1 (Widow)	-	60%
Appellant No.2 (daughter)	-	20%
Appellant No.3 (son)	-	10%
Appellant No.4 (son)	-	10%

16. UCO Bank shall open savings bank account as well as fixed deposit account of all the appellants. UCO Bank shall transfer the sum of Rs.50,000/- to the savings bank account of each of the appellants. The remaining share of each of

the appellants be kept in a fixed deposit. The period of fixed deposit shall be as under:-

Appellant No.1 -	60% of the enhanced award amount along with interest minus Rs.50,000/- for a period of ten years to be renewed for a further period of ten years.
Appellant No.2 -	20% of the enhanced award amount along with interest minus Rs.50,000/- for a period of 2 years.
Appellant No.3 -	10% of the enhanced award amount along with interest minus Rs.50,000/- for a period of 3 years.
Appellant No.4 -	10% of the enhanced award amount along with interest minus Rs.50,000/- for a period of 3 years.

17. The interest on the aforesaid four fixed deposits shall be paid monthly by automatic credit of interest in the Savings Account of appellant No.1.

18. Withdrawal from the aforesaid saving account shall be permitted to appellant No.1 after due verification and the Bank shall issue photo Identity Card to appellant No.1 to facilitate identity.

19. No cheque book be issued to appellant No.1 without the permission of this Court.

20. The original FDRs shall be retained by the Bank in the safe custody. However, the original Pass Books shall be given to appellant No.1 along with the photocopy of the FDRs.

21. The original Fixed Deposit Receipts shall be handed over to the appellants at the end of the fixed deposit period.

22. No loan, advance or withdrawal shall be allowed on the said FDRs without the permission of this Court. However, the appellants are granted liberty to approach this Court for withdrawal of amount at the time of marriage of appellant No.2.

23. Half yearly statement of account be filed by the Bank in this Court.

24. On the request of the appellants, the Bank shall transfer the Savings Account to any other branch of UCO Bank in Delhi according to the convenience of the claimants.

25. The appellant shall furnish all the relevant documents for opening of the Saving Bank Accounts and Fixed Deposit Accounts to Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi.

26. List for reporting the compliance on 1st September, 2009.

27. Copy of the order be given dasti to counsel for both the parties under the signatures of the Court Master.

28. Copy of this order be also sent to Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi through the UCO Bank, High Court Branch under the signature of Court Master.

J.R. MIDHA, J

JULY 02, 2009/aj/spal_(chamber)