

IN THE HIGH COURT OF DELHI AT NEW DELHI**+ MAC.APP.No.252/2008**

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Date of decision: 26th November, 2009

OM PRAKASH

..... Appellant

Through : Mr. Sanjeev Mehta, Adv.

versus

VAKIL

..... Respondent

Through : Mr. Amit Kumar Pandey, 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 the compensation of Rs.1,45,000/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

2. The accident dated 10th June, 2003 resulted in the death of Usha. The deceased was survived by her husband, two sons and a daughter who filed the claim petition before the learned Tribunal.

3. The deceased was aged 60 years at the time of the accident and was running a massage parlour from her residence. The appellants claim that the deceased was earning Rs.4,000/- per

month. However, in the absence of any documentary evidence of income, the learned Tribunal took the minimum wages of Rs.2,624.90 in respect of an unskilled worker, deducted 1/3rd towards personal expenses and applied the multiplier of 5 to compute the loss of dependency at Rs.1,20,000/-. Rs.15,000/- has been awarded towards loss of love and affection, Rs.5,000/- towards funeral expenses and Rs.5,000/- towards loss of estate. The total compensation awarded is Rs.1,45,000/-.

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

- (i) The income of the deceased should be taken according to the minimum wages of a skilled worker.
- (ii) Increase in minimum wages due to rise in price index and increase in inflation be taken into consideration.
- (iii) The multiplier be enhanced from 5 to 9.
- (iv) The compensation be awarded for loss of consortium.
- (v) The interest be enhanced from 6% per annum to 7.5% per annum.

5. Though the income of the deceased has not been proved by any documentary evidence, her occupation has been duly proved by the statement of PW-3 which was corroborated by PW-4. The minimum wages of Rs.3,695/- per month for a skilled worker at the time of the accident are taken into consideration for computation of compensation. Since the deceased was aged 60 years, the future prospects need not be taken into consideration. The appropriate multiplier at the age of 60 according to the

judgment of the Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) Scale 129** is 9. The multiplier is, therefore, enhanced from 5 to 9.

6. Taking the income of the deceased as Rs.3,695/- per month, deducting 1/3rd towards personal expenses and applying the multiplier of 9, the loss of dependency is computed to be Rs.2,66,040/- (Rs.3,695 x 12 x 2/3 x 9).

7. The learned Tribunal has not awarded any compensation towards loss of consortium. Rs.10,000/- is awarded towards loss of consortium. The appellants are entitled to total compensation of Rs.3,01,040/- (Rs.2,66,040 + Rs.15,000 + Rs.5,000 + Rs.5,000 + Rs.10,000).

8. The learned Tribunal has awarded interest @6% per annum. 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 6% per annum to 7.5% per annum.

9. The appeal is allowed and the award amount is enhanced from Rs.1,45,000/- to Rs.3,01,040/- along with interest @7.5% per annum from the date of filing of the petition till realization. The share of the appellants in the enhanced award amount and interest shall be equal.

10. The enhanced award amount along with interest be deposited by respondent No.3 with UCO Bank A/c Om Prakash through Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal,

Parliament Street, New Delhi (Mobile No. 09310356400) within 30 days.

11. Upon the aforesaid amount being deposited, UCO Bank is directed to release 50% of the enhanced award amount along with interest to the appellants in equal shares by transferring the said amount to their respective Saving Bank Account.

12. The remaining 50% amount along with interest be kept in four fixed deposits in the name of the appellants (each appellant having 1/4th share) for a period of 2½ years.

13. The interest on the aforesaid fixed deposits shall be paid monthly by automatic credit of interest in the Savings Account of the appellants.

14. Withdrawal from the aforesaid accounts shall be permitted to the appellants after due verification and the Bank shall issue photo Identity Card to the appellants to facilitate identity.

15. No cheque book be issued to the appellants without the permission of this Court.

16. The original Fixed Deposit Receipt shall be retained by the Bank in the safe custody. However, the original Pass Book shall be given to the appellants along with the photocopy of the FDRs.

17. The original fixed deposit receipts shall be handed over to the appellants at the end of the fixed deposit period.

18. No loan, advance or withdrawal shall be allowed on the said fixed deposit receipt without the permission of this Court.

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

20. On the request of the appellants, the Bank shall transfer the Savings Account to any other branch of UCO Bank according to the convenience of the appellants.

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

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

23. Copy of this order be also sent to Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400) through the UCO Bank, High Court Branch under the signature of Court Master.

J.R. MIDHA, J

NOVEMBER 26, 2009

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