

IN THE HIGH COURT OF DELHI AT NEW DELHI**+ MAC.APP.No.478/2005**

%

Date of decision: 21st August, 2009

PUSHPA ARORA & ORS. Appellants
Through : Mr. D.D. Dayani, Adv.

versus

ONKAR SINGH & ORS Respondents
Through : Mr. R.N. Sharma, Adv. for R-3.

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.11,90,040/- has been awarded by the learned Tribunal. The appellants are seeking enhancement of the award amount.

2. The accident dated 26th April, 2001 resulted in the death of Prem Swarup. The deceased was survived by his widow, one son and two daughters who filed the claim petition before the learned Tribunal. The deceased was aged 51 years at the time of the accident and was working as Assistant Manager with Food Corporation of India earning Rs.17,601/- per month. The learned Tribunal deducted the Income Tax out of the salary and took the

income of the deceased at the time of the accident to be Rs.16,320/- per month. $\frac{1}{3}^{\text{rd}}$ was deducted towards the personal expenses of the deceased and the multiplier of 9 was applied to compute the loss of dependency at Rs.11,75,040/-. Rs.5,000/- has been awarded towards funeral expenses and Rs.10,000/- towards loss of consortium. The total compensation awarded is Rs.11,90,040/-.

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

- (i) The future prospects of the deceased be taken into consideration.
- (ii) The personal expenses of the deceased be reduced from $\frac{1}{3}^{\text{rd}}$ to $\frac{1}{4}^{\text{th}}$.
- (iii) The multiplier be enhanced from 9 to 11.
- (iv) The compensation be awarded for loss of love and affection and loss of estate.
- (v) The interest be enhanced from 7% to 9%.

4. The law with respect to the future prospects, deduction towards the personal expenses and multiplier is 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**. According to the said judgment, no future prospects have to be taken into consideration in respect of the death of a person aged more than 50 years, the personal expenses of the deceased leaving behind three to six legal representatives have to be taken as $\frac{1}{4}^{\text{th}}$ of his income and the appropriate multiplier

at the age of 51 years is 11.

5. Following the aforesaid judgment of the Hon'ble Supreme Court, no case for enhancement on account of future prospects is made out. However, since the deceased left behind four dependents, the personal expenses of the deceased are reduced from $1/3^{\text{rd}}$ to $1/4^{\text{th}}$ and the multiplier is enhanced from 9 to 11. The loss of dependency of the appellants is computed to be Rs.16,15,680/- ($\text{Rs.16,320} \times 3/4 \times 12 \times 11$). The learned Tribunal has not awarded any compensation for loss of love and affection and loss of estate. Rs.10,000/- is awarded towards loss of love and affection and Rs.10,000/- towards loss of estate. The appellants are entitled to total compensation of Rs.16,50,680/- ($\text{Rs.16,15,680} + \text{Rs.10,000} + \text{Rs.10,000} + \text{Rs.10,000} + \text{Rs.5,000}$). The learned Tribunal has awarded the interest @7% 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 7% to 7.5% per annum.

6. The appeal is allowed and the award amount is enhanced from Rs.11,90,040/- to Rs.16,50,680/- along with interest @7.5% per annum from the date of filing of the petition till realization.

7. The shares of the appellants in the award amount shall be as under:-

Appellant No.1	:	60%
Appellant No.2	:	10%
Appellant No.3	:	10%
Appellant No.4	:	20%

8. The learned counsel for the appellant submits that he has instructions from appellants No.2 to 4 that the entire award amount be paid to appellant No.1. Let the affidavit be filed by appellants No.2 to 4 before this Court on the next date of hearing.

9. The enhanced award amount along with interest be deposited with the UCO Bank, Delhi High Court Branch A/c Pushpa Arora within 30 days.

10. Upon the aforesaid amount being deposited, the UCO Bank, Delhi High Court Branch is directed to release 50% of the award amount along with interest to appellant No.1 and the remaining 50% award amount along with interest thereon be kept in fixed deposit in the name of appellant No.1 for a period of five years on which monthly interest be paid to her.

11. The interest on the aforesaid fixed deposit be paid monthly by automatic credit of interest in the Savings Account of appellant No.1.

12. Withdrawal from the aforesaid 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.

13. No loan, advance or withdrawal shall be allowed on the said Fixed Deposit Receipt without the permission of this Court.

14. On the request of appellant No.1, the Bank shall transfer the Savings Account to any other branch of UCO Bank in Delhi according to the convenience of appellant No.1.

15. Appellant No.1 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 (Mobile No. 09310356400).

16. List for directions and filing of the affidavits of appellant Nos.2 to 4 on 9th October, 2009.

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

18. 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

AUGUST 21, 2009

aj