

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **MAC.APP.No.341/2006**

% Date of decision: 25th November, 2009

SUNITA & ORS. Appellants
Through : Mr. Navneet Goyal and
Mr. Varun Kumar, Advs.

versus

NEW INDIA ASSURANCE CO. LTD. & Respondent
Through: Mr. D.K. Sharma, Adv.

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.4,97,000/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

2. The accident dated 15th July, 1997 resulted in the death of Jasdev Singh. The deceased was survived by his widow, two minor sons and mother who filed the claim petition before the learned Tribunal.

3. The deceased was aged 29 years at the time of the accident and was carrying on the business of building material supplier.

The learned Tribunal took his income to be Rs.40,000/- per

annum, deducted $\frac{1}{3}^{\text{rd}}$ towards personal expenses and applied the multiplier of 18 to compute the loss of dependency at Rs.4,77,000/-. Rs.10,000/- has been awarded towards funeral expenses and Rs.10,000/- towards loss of consortium and love and affection. The total compensation awarded is Rs.4,97,000/-.

4. The learned counsel for the appellants submit that the deduction towards personal expenses be reduced from $\frac{1}{3}^{\text{rd}}$ to $\frac{1}{4}^{\text{th}}$ and compensation towards loss of consortium and love and affection be enhanced. The learned counsel further seeks compensation towards loss of estate and enhancement in the rate of interest.

5. It is well 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** that the personal expenses in respect of the deceased who has left behind 4 to 6 legal dependents is $\frac{1}{4}^{\text{th}}$. Following the aforesaid judgment, the personal expenses of the deceased are reduced from $\frac{1}{3}^{\text{rd}}$ to $\frac{1}{4}^{\text{th}}$. Taking the income to be Rs.40,000/- per annum, deducting $\frac{1}{4}^{\text{th}}$ towards personal expenses and applying the multiplier of 18, the loss of dependency is computed to be Rs.5,40,000/- (Rs.40,000 x 18 x $\frac{3}{4}$).

6. The learned Tribunal has awarded Rs.10,000/- towards loss of consortium and loss of love and affection. The compensation of Rs.10,000/- is treated to be towards loss of consortium only. Rs.10,000/- is awarded towards loss of love and affection and Rs.10,000/- towards loss of estate. The total compensation is

computed to be Rs.5,80,000/- (Rs.5,40,000 + Rs.10,000 + Rs.10,000 + Rs.10,000 + Rs.10,000).

7. The learned Tribunal has awarded interest @5.5% per annum which is enhanced to 7.5% per annum following the aforesaid judgment of the Hon'ble Supreme Court in the case of **Dharampal vs. U.P. State Road Transport Corporation, III 2008 ACC (1) SC.**

8. The appeal is allowed and the award amount is enhanced from Rs.4,97,000/- to Rs.5,80,000/- along with interest @7.5% per annum from the date of filing of the petition till realization.

9. The enhanced award amount along with interest be deposited by respondent No.1 with UCO Bank, Delhi High Court Branch A/c Sunita through Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400) within 30 days.

10. Upon the aforesaid deposit being made, UCO Bank is directed to release 50% of the same to appellant No.1 by transferring to her Saving Bank Account. The remaining amount be kept in fixed deposit in the name of appellant No.1 for a period of 2½ years with cumulative interest.

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

J.R. MIDHA, J

NOVEMBER 25, 2009

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