

UNITED INDIA INSURANCE CO. LTD Appellant
Through : Mr. H.C. Mittal, Mr. Ankur
Mittal and Mr. Pranab Jha,
Advs.

versus

ASHOK & ORS. Respondents
Through : Mr. Suraj Bhan, Adv. for R-1.

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? | No |
| 2. | To be referred to the Reporter or not? | No |
| 3. | Whether the judgment should be reported in the Digest? | No |

JUDGMENT (Oral)

1. The appellant has challenged the award of the learned Tribunal whereby compensation of Rs.5,39,000/- has been awarded to respondent No.1.

2. The accident dated 1st March, 2004 resulted in the death of Santosh aged 26 years. The deceased was survived by her husband who filed the claim petition before the learned Tribunal. It was stated in the petition that the deceased was self-employed in the job of stitching and sewing work and was earning Rs.4,000/- per month.

3. The claimant/respondent No.1 appeared in the witness box as PW—1 and stated that his wife was doing the work of Rakhi manufacturing and was also doing stitching and sewing work and was earning Rs.4,000/- to Rs.5,000/- per month.

4. The learned Tribunal held that evidence was not sufficient to prove the income of the deceased and, therefore, the deceased was taken to be a housewife. The learned Tribunal took the value of the services rendered by the deceased to be Rs.3,000/- following the judgment of the Apex Court in the case of **Lata Wadhwa vs. State of Bihar, 2001 ACJ 1735**. The learned Tribunal applied the multiplier of 14 to compute the loss of dependency at Rs.5,04,000/-. Rs.10,000/- was awarded towards loss of expectancy of life of the deceased, Rs.10,000/- towards loss of love and affection and Rs.10,000/- towards loss of consortium and Rs.5,000/- towards funeral expenses. The total compensation awarded is Rs.5,39,000/-.

5. The learned counsel for the appellant submits that Rs.15,000/- per annum should be taken to be the value of the services of the deceased according to the Second Schedule of the Motor Vehicles Act. The learned counsel further submits that in the case of **Lata Wadhwa (Supra)**, the Apex Court had taken the value of the services of the deceased to be Rs.3,000/- in the peculiar facts of that case and, therefore, in the present case, the lower amount should

be taken towards the value of the services of the deceased. The second ground raised by the learned counsel for the appellant is that the lower multiplier should be applied in the present case.

6. There is no infirmity in the finding of the learned Tribunal with respect to the value of the services of the deceased following the judgment of Apex Court in the case of **Lata Wadhwa (Supra)** in which the Apex Court held as under:-

“11. So far as the deceased housewives are concerned, in the absence of any data and as the housewives were not earning any income, attempt has been made to determine the compensation, on the basis of services rendered by them to the house. On the basis of the age group of the housewives, appropriate multiplier has been applied, but the estimation of the value of services rendered to the house by the housewives, which has been arrived at Rs. 12,000/- per annum in cases of some and Rs. 10,000/- for others, appears to us to be grossly low. It is true that the claimants, who ought to have given datas for determination of compensation, did not assist in any manner by providing the datas for estimating the value of services rendered by such housewives. But even in the absence of such datas and taking into consideration, the multifarious services rendered by the housewives for managing the entire family, even on a modest estimation, should be Rs. 3,000/- per month and Rs. 36,000/- per annum. This would apply to all those housewives between the age group of 34 to 59 and as such who were active in life. The compensation awarded, therefore should be re-calculated, taking the value of services rendered per annum to be Rs. 36,000/- and thereafter applying the multiplier, as has been applied already, and so far as the conventional amount is concerned, the same should be Rs. 50,000/- instead of Rs. 25,000/- given under the Report. So far as the elderly ladies are concerned, in the

age group of 62 to 72, the value of services rendered has been taken at Rs. 10,000/- per annum and multiplier applied is eight. Though, the multiplier applied is correct, but the values of services rendered at Rs. 10,000/- per annum, cannot be held to be just and, we, therefore, enhance the same to Rs. 20,000/- per annum. In their case, therefore, the total amount of compensation should be re-determined, taking the value of services rendered at Rs. 20,000/- per annum and then after applying the multiplier, as already applied and thereafter adding Rs. 50,000/- towards the conventional figure.”

7. There is another aspect of this matter. The claimant/respondent No.1 appeared in witness box and deposed that the deceased was doing the job of stitching and sewing work and was earning Rs.4,000/- per month. Since there was no corroboration to the statement of the claimant/respondent No.1 with respect to the income of the deceased, the minimum wages can be taken into consideration to compute the loss of dependency. The minimum wages at the time of the accident were approximately Rs.3,000/- per month and considering the increase in minimum wages due to inflation and price index, the average income of the deceased can be computed by taking the average of Rs.3,000/- and Rs.6,000/- which comes to Rs.4,500/- per month. After deducting 1/3rd towards personal expenses of the deceased, the loss of dependency comes to Rs.3,000/- per month. The computation of loss of dependency on this basis comes to the same amount as taken by the learned Tribunal on the basis of the value of the

services of the deceased. The learned Tribunal has taken Rs.3,000/- per month as loss of dependency. This shows that the compensation computed by the learned Tribunal is just, fair and reasonable.

8. With respect to the multiplier, the learned Tribunal adopted the multiplier of 14 considering that the deceased was aged 26 years and was survived by her husband who was aged 35 years at the time of the accident. Although the Second Schedule of the Motor Vehicles Act provides for the multiplier of 17, the learned Tribunal has applied the multiplier of 14 which is fair and reasonable in the facts of this case and does not call for any interference.

9. The learned Tribunal has awarded Rs.5,000/- towards funeral expenses, Rs.10,000/- towards loss of love and affection, Rs.10,000/- towards loss of consortium and Rs.10,000/- towards loss of expectancy of life of the deceased. There is no provision for awarding separate compensation for loss of expectancy of life of the deceased. However, since the compensation awarded towards loss of love and affection and loss of consortium is on a lower side, the amount of Rs.10,000/- awarded towards loss of expectancy of life is treated as compensation towards loss of consortium. The award does not call for any interference in appeal.

10. For the aforesaid reasons, the appeal is dismissed.
11. No costs.

J.R. MIDHA, J

APRIL 13, 2009

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