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IN THE HIGH COURT OF DELHI AT NEW DELHI

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MAC APP. NO. 228/2009

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Date of decision: 30th November, 2009

USHA SHARMA & ORS.

..... Appellants

Through: Mr.Jatinder Kamra, Advocate.

versus

RAM HARI SHARMA ETC.

..... Respondents

Through: Mr.J.P.N.Shahi, Advocate.

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.15,26,730/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

2. The accident dated 23rd February, 2004 resulted in the death of Radhe Shyam. The deceased was survived by his widow, three sons, one daughter and parents, who filed the claim petition before the learned Tribunal.

3. The deceased was aged 44 years at the time of the accident and was working as a Clerk/Record Keeper with Oriental Bank of Commerce, Janak Puri, New Delhi, earning Rs.10,494.30 per month. The learned Tribunal deducted 1/4th towards personal expenses of the deceased and applied the multiplier of 15 to compute the loss of

dependency as Rs.14,16,730/-. Rs.50,000/- have been awarded towards loss of consortium, Rs.50,000/- towards loss of love and affection and Rs.10,000/- towards funeral expenses. The total compensation is Rs.15,26,730/-.

4. Learned counsel for the appellants submits that the personal expenses of the deceased be reduced from 1/4th to 1/5th and 30% be added towards future prospects of the deceased, in terms of the Hon'ble Supreme Court's decision in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009(6) Scale 129**.

5. The deceased had left seven dependents/legal representatives and, therefore, appropriate deduction towards personal expenses is 1/5th. The deceased was aged 44 years at the time of the accident and had a permanent job with Oriental Bank of Commerce and, therefore, 30% of his salary is added towards future prospects following the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma (supra)**.

6. The learned Tribunal has applied the multiplier of 15. However, at the age of 44, the multiplier should be 14. The multiplier is, therefore, reduced from 15 to 14.

7. The personal expenses of the deceased are reduced from 1/4th to 1/5th and 30% of the income is added towards future prospects. Taking the income of the deceased to be Rs.13,642.59. (Rs.10,494.30 + 30%), deducting 1/5th towards personal expenses and applying multiplier of 14, the loss of dependency is computed to be Rs.18,33,564/-.

8. The learned Tribunal has not awarded compensation towards loss of estate. However, the compensation awarded for loss of

consortium is on a higher side. The compensation for loss of estate is, therefore, deemed to be included in the compensation of loss of consortium. The total compensation is computed to be Rs.19,43,564/- (Rs.18,33,564 + Rs.50,000 + Rs.10,000 + Rs.50,000).

9. The appeal is allowed and the award amount is enhanced from Rs.15,26,730/- to Rs.19,43,564/-. The learned Tribunal has awarded interest @ 9% which is not disturbed on the original awarded amount of Rs.15,26,730/-. However, on the enhanced award, the rate of interest shall be 7% per annum from the date of filing of the petition till realization.

10. The enhanced compensation amount along with interest be deposited by respondent No.2 with UCO Bank, A/c Usha Sharma through Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400) within 30 days.

11. The order with respect to the disbursement of the award amount shall be passed after examining the appellants who are directed to remain present in Court on the next date of hearing.

12. List on 24th February, 2010.

13. Copy of this order be given 'Dasti' to learned counsel for the parties under signatures of the Court Master.

J.R. MIDHA, J.

NOVEMBER 30, 2009

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