

IN THE HIGH COURT OF DELHI AT NEW DELHI**+ MAC.APP.No.337/2008**

%

Date of decision: 10th November, 2009

SHAMBHU THAKUR & ORS. Appellants
Through : Mr. Yogesh Narula, Adv.

versus

DILIP & ORS. Respondents
Through : Mr. A.K. Soni, 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.3,57,000/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

2. The accident dated 9th April, 2007 resulted in the death of Suryapati Devi. The deceased was survived by her husband and six children who filed the claim petition before the learned Tribunal.

3. The deceased was aged 48 years at the time of the accident and was a housewife. Following the judgment of the Hon'ble

Supreme Court in the case of **Lata Wadhwa vs. State of Bihar,**

2001 ACJ 1735 (SC), the learned Tribunal took the value of the services of the housewife to be Rs.3,000/- per month. The learned Tribunal deducted 1/3rd towards personal expenses of the deceased and applied the multiplier of 13 to compute the loss of dependency at Rs.3,12,000/-. Rs.35,000/- 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.3,57,000/-.

4. The following two grounds have been urged by learned counsel for the appellant at the time of hearing of this appeal:-

(i) The deduction of 1/3rd towards personal expenses of the deceased is not in accordance with law.

(ii) The compensation be awarded towards loss of consortium.

5. The learned Tribunal has followed the judgment of the Hon'ble Supreme Court in the case of **Lata Wadhwa** (supra) and has taken the value of services of the housewife to be Rs.3,000/- per month. The judgment of the Hon'ble Supreme Court does not permit any deduction towards personal expenses and, therefore, the deduction of 1/3rd towards personal expenses is not permissible.

6. Following the judgment of the Hon'ble Supreme Court, the deduction of 1/3rd towards the personal expenses of the deceased is set aside. The learned Tribunal has not awarded any compensation towards loss of consortium. However, the learned Tribunal has awarded higher compensation of Rs.35,000/- towards loss of love and affection which shall be deemed to

include the compensation for loss of consortium. The total compensation of the appellants is computed to be Rs.5,13,000/- [(Rs.3,000 x 13 x 12) + Rs.35,000 + Rs.5,000 + Rs.5,000].

7. The appeal is allowed and the award amount is enhanced from Rs.3,57,000/- to Rs.5,13,000/- along with interest @7.5% per annum from the date of filing of the petition till realization.

8. The enhanced award amount along with interest be deposited by respondent No.3 with UCO Bank A/c Shambhu Thakur through Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400).

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

10. Renotify for 16th December, 2009.

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

J.R. MIDHA, J

NOVEMBER 10, 2009

aj