

IN THE HIGH COURT OF DELHI AT NEW DELHI**+ MAC.APP.No.355/2009**

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Date of decision: 12th October, 2009

SUSHILA

..... Appellant

Through: Mr. O.P. Mannie, Adv.

versus

DHARMENDER & ORS.

..... Respondents

Through: Ms. Neerja Sachdeva, Adv.
for R-3.**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 appellant has challenged the award of the learned Tribunal whereby compensation of Rs.4,43,406/- has been awarded to the appellant. The appellant seeks the enhancement of the award amount.

2. The accident dated 17th July, 2007 resulted in the death of Ashok Kumar. The deceased was survived by his mother who filed the claim petition before the learned Tribunal.

3. The deceased was aged 23 years at the time of the accident and was unmarried. The appellant is the mother of the deceased and she was aged about 43 years 6 months at the time of the

accident. However, in her affidavit before the learned Tribunal, she mentioned her age to be 50 years. She placed on record copy of her ration card - Ex.PW1/1 in which her age was shown to be 40 years. Considering inconsistency between the affidavit and her ration card, the learned Tribunal presumed her age to be between 45-50 years and applied the multiplier of 13.

4. The learned counsel for the appellant submits that the appellant is an illiterate lady and she could not place on record the proof of her age. The learned counsel for the appellant has placed on record the Identity Card issued by the Election Commission in which her age is shown to be 42 years as on 1st January, 2006. The photocopy of the Identity Card issued by Election Commission of India has been filed along with the appeal.

5. Vide order dated 2nd September, 2009, the appellant was directed to remain present in the Court along with original Election Card, in pursuance to which the appellant is present in the Court today and she has produced the original Election Card, which has been perused by this Court as well as learned counsel for respondent No.3.

6. The age of the appellant is taken to be 43 years 6 months at the time of the accident and the appropriate multiplier for the said age is 14 according to the recent judgment of Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) Scale 129**. The multiplier is accordingly enhanced from 13 to 14. Applying the multiplier of 14, the loss of

dependency is computed to be Rs.4,93,668/- (2938.50 x 12 x 14). The learned Tribunal has awarded Rs.10,000/- towards funeral expenses and Rs.25,000/- towards love and affection which are not disturbed. No compensation has been awarded towards loss of estate. Rs.10,000/- is awarded towards loss of estate. The total compensation is computed to be Rs.5,38,668/- (Rs.4,93,668 + 10,000 + 25,000 + 10,000).

7. The appeal is allowed and the award amount is enhanced from Rs.4,43,406/- to Rs.5,38,668/- along with interest at the rate of 7.5% per annum from the date of filing of the petition till realization.

8. The amount be deposited by respondent No.3 with the learned Tribunal within 30 days. On such deposit being made, the learned Tribunal is directed to release 50% of the amount to the appellant. The remaining amount be kept in the fixed deposit for a period of 5 years with cumulative interest.

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

J.R. MIDHA, J

OCTOBER 12, 2009
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