

IN THE HIGH COURT OF DELHI AT NEW DELHI**+ MAC.APP.No.414/2009**

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Date of decision: 31st August, 2009

SHAKUNTALA & ORS.

..... Appellants

Through : Mr. Jatinder Kamra, Adv.

versus

LAXMAN ETC

..... Respondent

Through : Mr. Amit Kumar Pandey, 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)**CM No.12110/2009**

1. Allowed, subject to just exceptions.
2. The application stands disposed of.

CM No.12111/2009

1. For the reasons stated in the application, the delay of 24 days in filing of this appeal is condoned.
2. CM stands disposed of.

MAC.APP. 414/2009

1. Issue notice to respondent No.3.
2. Mr. Amit Kumar Pandey, Advocate accepts notice on behalf of respondent No.3.
3. This appeal involves a very short point and, therefore, has been finally heard at admission stage itself.

4. The appellants have challenged the award of the learned Tribunal whereby compensation of Rs.4,64,880/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

5. The accident dated 9th July, 2007 resulted in the death of Braham Dass. The deceased was survived by his widow, three sons and father who filed the claim petition before the learned Tribunal.

6. The deceased was aged 46 years at the time of the accident and was working as an Ice Cream vendor. The learned Tribunal took the minimum wages of Rs.3,470/- per month into consideration, deducted 1/3rd towards personal expenses and applied the multiplier of 13 to compute the loss of dependency of Rs.3,60,880/-. Rs.50,000/- has been awarded towards loss of consortium, Rs.4,000/- towards funeral expenses and Rs.50,000/- towards loss of estate and loss of love and affection. The total compensation awarded is Rs.4,64,880/-.

7. The learned counsel for the appellant submits that the learned Tribunal has not taken the judicial notice of increase in minimum wages due to inflation and rise in price index and has deducted 1/3rd towards personal expenses instead of 1/4th.

8. The learned counsel for respondent No.3 in reply submits that the non-pecuniary compensation for loss of consortium, loss of estate and loss of love and affection is on a higher side.

9. It is well settled by catena of judgments of this Court in the cases of **Kanwar Devi vs. Bansal Roadways, 2008 ACJ 2182, Lekh Raj vs Suram Singh, 2007 ACJ 2165, National Insurance Company Limited vs. Renu Devi III (2008) ACC 134** and **UPSRTC vs. Munni Devi**, MAC.APP.No.310/2007 decided on 28.07.2008 that the judicial notice be taken of increase in minimum wages due to inflation and rise

in price index and that the minimum wages get doubled over the period of 10 years and the average of minimum wages and its double be taken to compute the income of the deceased for computation of compensation. With respect to the deduction of personal expenses, it has been held by the Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) Scale 129** that the personal expenses have to be taken as $\frac{1}{4}$ th of the income of the deceased where the number of dependents are 4 to 6.

10. Following the aforesaid judgments, the income of the deceased for computation of compensation is taken to be Rs.5,205/- [(Rs.3,470 + Rs.6,940)/2]. The personal expenses of the deceased are taken to be $\frac{1}{4}$ th. Taking the income of the deceased to be Rs.5,205/-, deducting $\frac{1}{4}$ th towards personal expenses and applying the multiplier of 13, the loss of dependency is computed to be Rs.6,08,985/- (Rs.5,205 x $\frac{3}{4}$ x 12 x 13). The compensation for loss of consortium and loss of estate and loss of love and affection is on a higher side. The learned Tribunal has relied on the judgment of this Court where Rs.50,000/- has been awarded towards loss of love and affection and loss of estate and Rs.50,000/- towards loss of consortium. However, in view of the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation** (supra) where the Hon'ble Supreme Court has awarded Rs.10,000/- towards loss of consortium and Rs.10,000/- towards loss of estate, the compensation under the heads of loss of consortium, loss of estate, loss of love and affection and funeral expenses are awarded @ Rs.10,000/- under each of the said heads.

11. The total compensation is computed to be Rs.6,48,985/- (Rs.6,08,985 + Rs.10,000 + Rs.10,000 + Rs.10,000 + Rs.10,000).

12. The appeal is allowed and the award amount is enhanced from Rs.4,64,880/- to Rs.6,48,985/- along with interest @ 7% per annum from the date of filing of the petition till realization.

13. The enhanced award amount along with interest be deposited by respondent No.3 with the learned Tribunal within 30 days.

14. Upon such deposit being made, the learned Tribunal is directed to disburse the award amount in the same manner and proportion as in the original award.

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

J.R. MIDHA, J

AUGUST 31, 2009

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