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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ MAC.APP.No.489/2008

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Date of decision: 24th November, 2009

INJORIA DEVI & ANR Appellants
Through : Mr. R.S. Roy, Adv.

versus

NEW INDIA ASSURANCE CO. LTD & ORS Respondents
Through : Mr. S.L. Gupta, 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? | 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.2,60,120/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

2. The accident dated 20th January, 1996 resulted in the death of Rattan Kumar Yadav. The deceased was survived by his widow and mother who filed the claim petition before the learned Tribunal.

3. The deceased was aged 25 years at the time of the accident and was selling fruits/vegetable at shop No.5, Okhla Mandi earning Rs.4,500/- per month. Since there was no documentary evidence of income, the learned Tribunal took the minimum

wages of Rs.1,545/- per month, deducted 1/3rd towards personal expenses and applied the multiplier of 17 to compute the loss of dependency at Rs.2,10,120/-. Rs.5,000/- has been awarded towards funeral expenses, Rs.25,000/- towards loss of love and affection and Rs.20,000/- towards loss of consortium. The total compensation awarded is Rs.2,60,120/-.

4. The learned counsel for the appellants has urged the following grounds at the time of hearing of this appeal:-

- (i) The multiplier be enhanced from 17 to 18.
- (ii) The increase in minimum wages due to inflation and rise in price index be taken into consideration.
- (iii) The compensation for loss of estate be awarded.

5. The deceased was aged 25 years at the time of the accident and the appropriate multiplier according to the recent judgment of the Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) Scale 129** is 18.

6. Following the aforesaid judgment of the Hon'ble Supreme Court, the multiplier is enhanced from 17 to 18.

7. The learned Tribunal has not taken increase in minimum wages due to inflation and rise in price index. It has been held by this Court in the cases of **Kanwar Devi vs. Bansal Roadways, 2008 ACJ 2182, 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 Court should take judicial notice of increase in minimum wages to meet the increase in price index and inflation rate. The Court has taken

the view that the minimum wages get doubled over the period of 10 years and increase in minimum wages is not akin to future prospects and the income should be computed by taking the average of minimum wages and its double.

8. Following the aforesaid judgments, the income of the deceased is taken to be Rs.2,317.5 $[(Rs.1,545 + Rs.3,090)/2]$. The loss of dependency is computed to be Rs.3,33,720/- $(Rs.2,317.5 \times 12 \times 18 \times 2/3)$.

9. The learned Tribunal has not awarded any compensation towards loss of estate. However, higher compensation is awarded towards loss of consortium. The same shall be treated to be compensation towards loss of consortium and loss of estate and, therefore, no further amount is awarded on account of loss of estate. The total compensation is computed to be Rs.3,83,720/- $(Rs.3,33,720 + Rs.5,000 + Rs.25,000 + Rs.20,000)$.

10. The appeal is allowed and the award amount is enhanced from Rs.2,60,120/- to Rs.3,83,720/-. The learned Tribunal has awarded interest @ 9% per annum which is not disturbed on the original award amount of Rs.2,60,120/-. However, on the enhanced award amount, the rate of interest shall be @7.5% per annum from the date of filing of the petition till realization.

11. The enhanced award amount along with interest be deposited by respondent No.1 with UCO Bank, Delhi High Court Branch A/c Sakila Devi by means of a cheque through Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400) within 30 days.

12. Upon the aforesaid deposit being made, the UCO Bank is directed to release 50% of the award amount by means of a cheque drawn in the name of Post Master, GPO, Kashmiri Gate, Delhi for being invested in Monthly Income Scheme for a period of six years in the name of Sakila Devi.

13. Out of the remaining 50% amount, 60% thereof be released to Sakila Devi and 40% of the same (40% of 50%) be released to Injoria Devi by transferring the said amount to their Saving Bank Accounts.

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

J.R. MIDHA, J

NOVEMBER 24, 2009

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