

IN THE HIGH COURT OF DELHI AT NEW DELHI**+ MAC.APP.No.642/2007**

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Date of decision: 10th November, 2009

MANJU DEVI & ORS. Appellants
 Through : Mr. Anshuman Bal, Adv. for
 Mr. O.P. Mannie, Adv.

versus

BHOLA RAM & ORS. Respondents
 Through : Mr. Ramesh Kumar, Adv. for
 Mr. Jose Chiramel, Adv.

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.5,74,000/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

2. The accident dated 28th September, 2005 resulted in the death of Mohan Shyam. The deceased was survived by his widow, two minor daughters, one son and mother who filed the claim petition before the learned Tribunal.

3. The deceased was aged 29 years at the time of the accident and was running a tea shop. Since there was no documentary evidence of income, the learned Tribunal took the minimum

wages of Rs.3,044/- per month, deducted 1/3rd towards personal expenses and applied the multiplier of 18 to compute the loss of dependency at Rs.5,04,000/-. Rs.10,000/- has been awarded towards loss of estate, Rs.10,000/- towards funeral expenses, Rs.10,000/- towards transportation expenses of dead body, Rs.10,000/- towards loss of consortium and Rs.30,000/- towards medical expenses as the deceased remained hospitalized from 28th September, 2005 up to 7th October, 2005 when he succumbed to the injuries suffered in the accident. The total compensation awarded is Rs.5,74,000/-.

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

(i) The personal expenses of the deceased be reduced from 1/3rd to 1/4th.

(ii) The increase in minimum wages due to inflation and rise in price index be taken into consideration.

(lii) The compensation for loss of love and affection be awarded.

5. It is well settled by the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) Scale 129** that the personal expenses of the deceased have to be taken to be 1/4th where the deceased has left behind 4 to 6 dependents. In the present case, the deceased has left behind five dependents.

6. Following the aforesaid judgment of the Hon'ble Supreme Court, the personal expenses of the deceased are reduced from 1/3rd to 1/4th.

9. 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.

10. Following the aforesaid judgments, the income of the deceased is taken to be Rs.4,566/- $[(Rs.3,044 + Rs.6,088)/2]$. The loss of dependency is computed to be Rs.7,39,692/- $(Rs.4,566 \times 12 \times 18 \times 3/4)$. The learned Tribunal has not awarded any compensation towards loss of love and affection. Rs.10,000/- is awarded towards loss of love and affection. The total compensation is computed to be Rs.8,19,692/- $(Rs.7,39,692 + Rs.10,000 + Rs.10,000 + Rs.10,000 + Rs.10,000 + Rs.10,000 + Rs.30,000)$.

11. The appeal is allowed and the award amount is enhanced from Rs.5,74,000/- to Rs.8,19,692/- along with interest @7.5% per annum from the date of filing of the petition till realization.

12. The enhanced award amount along with interest be deposited by respondent No.3 with UCO Bank A/c Manju Devi

through Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400) within 30 days.

13. The order of disbursement shall be passed on the next date of hearing after examining the claimants who are directed to remain present in the Court on the next date of hearing.

14. Renotify for 15th December, 2009.

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

J.R. MIDHA, J

NOVEMBER 10, 2009

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