

+ MAC.APP.No.544/2008Date of Decision: 25th November, 2009

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THE COMMANDANT OF PACE Appellant
Through : Mr. Prashant Katara, Adv.
for Mr. Anil Mittal, Adv.

versus

ISHRANA ALI & ORS. Respondents
Through : None.

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.12,22,400/- has been awarded to claimants/respondents No.1 to 5.

2. The accident dated 11th July, 2006 resulted in the death of Tasim Ali. The deceased was survived by his widow, minor daughter, minor son and parents who filed the claim petition before the learned Tribunal.

3. The deceased was aged 33 years at the time of the accident and was a Computer Engineer. The claimants claimed the income of the deceased to be Rs.25,000/- to Rs.30,000/- per month. However, the learned Tribunal the income of the deceased as Rs.6,000/- per month, 50% was

added towards the future prospects, 1/4th was deducted towards personal expenses and the multiplier of 17 was applied to compute the loss of dependence at Rs.11,42,400/-. Rs.10,000/- has been awarded towards funeral expenses, Rs.30,000/- towards loss of consortium and Rs.40,000/- towards loss of love and affection. The total compensation awarded is Rs.12,22,400/-.

4. The only ground urged by learned counsel for the appellant at the time of hearing of this appeal is that the income of the deceased has been taken on a higher side.

5. There is no merit or substance in the submission of the learned counsel for the appellant. It has been proved on record that the deceased was a Computer Engineer having Diploma in Computer Engineering/Programming. The deceased was an Income Tax payee. The passbook of the deceased was proved as Ex.PW1/22 which showed the entries of Rs.50,412/- in the year 2003, Rs.1,10,320/- in the year 2004, Rs.83,731/- in the year 2005 and Rs.2,70,987/- in the year 2006. The claimants pressed before the learned Tribunal that income of the deceased be taken to be Rs.2,70,987/- as per the income reflected in the passbook for year 2006. However, the learned Tribunal did not accept the submission and took the income of Rs.6,000/- considering the minimum wages of Rs.4,031/- per month and that the deceased was highly qualified.

6. The income of the deceased assessed by the learned Tribunal is on a lower side and warrants enhancement. However, since no cross-objections have been filed by the claimants, no further orders are required in this regard.

7. For all the aforesaid reasons, the appeal is dismissed.

8. The appellant has deposited the entire award amount in terms of the order dated 17th March, 2009 out of which Rs.1,00,000/- has been released to respondent No.1 and Rs.1,00,000/- has been released to respondent No.5 and the remaining amount is in four fixed deposits in terms of the order dated 7th July, 2009.

9. The UCO Bank is directed to hand over the fixed deposit receipts to respondents No.1, 2, 3 and 5 on the period of expiry of the FDR.

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

11. Copy of this order be also sent to UCO Bank, Delhi High Court Branch thorough Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400).

J.R. MIDHA, J

NOVEMBER 25, 2009

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