

RANI DEVI & ORS. Appellants
Through : Mr. O.P. Mannie, Adv.

versus

TAJ MOHAMMAD & ORS. Respondents
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)

1. The appellant have challenged the award of the learned Tribunal whereby compensation of Rs.4,45,388/- has been awarded to the appellants. The appellants seek the enhancement of the award amount.

2. The accident dated 15th May, 2005 resulted in the death of Kuldeep Singh. The deceased was survived by his widow, son and mother who filed the claim petition before the learned Tribunal.

3. The deceased was aged 41 years at the time of the accident and was carrying on the business of selling milk. It was claimed by the appellants that the deceased was

earning Rs.6,000/- per month. However, in the absence of any documentary evidence, the learned Tribunal took the minimum wages in respect of unskilled worker at Rs.3,044.90. 1/3rd was deducted towards the personal expenses of the deceased and the multiplier of 15 was applied to compute the loss of dependency at Rs.3,65,388/-. Rs.60,000/- has been awarded for loss of love and affection and Rs.20,000/- towards funeral expenses. The total compensation awarded is Rs.4,45,388/-.

4. The learned counsel for the appellants submit that the learned Tribunal has not taken into consideration the increase in minimum wages due to inflation and rise in price index. The learned counsel further submits that the compensation for loss of consortium and loss of estate be awarded.

5. It is well settled by the catena of judgments of 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.

6. The learned counsel for respondent No.3 submits that the increase in minimum wages should not be allowed and the multiplier be reduced from 15 to 14. It is noted that the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma vs. DTC (Supra)** does not deal with the increase in minimum wages due to inflation and rise in price index.

7. Following the judgments of this Court mentioned above, the income of the deceased is taken to be Rs.4,567.35 $[(Rs.3,044.90 + Rs.6089.80)/2]$. However, the submission of learned counsel for respondent No.3 with respect to the multiplier is accepted and the multiplier is reduced from 15 to 14.

8. Taking the income of the deceased to be Rs.4,567.35, deducting $1/3^{rd}$ towards personal expenses and applying the multiplier of 14, the loss of dependency is computed to be Rs.5,11,543/- $(Rs.4,567.35 \times 2/3 \times 12 \times 14)$.

9. The learned Tribunal has not awarded any compensation towards loss of consortium and loss of estate. However, the compensation awarded towards loss of love and affection and funeral expenses is on a higher side and, therefore, no separate compensation is awarded for loss of consortium and loss of estate. It is held that the compensation for loss of love and affection shall include the compensation for loss of consortium and loss of estate. The appellants are entitled to total compensation of Rs.5,91,543/-

(Rs.5,11,543 + Rs.60,000 + Rs.20,000).

10. The appeal is allowed and the award amount is enhanced from Rs.4,45,388/- to Rs.5,91,543/- along with interest @ 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.3 with UCO Bank, Delhi High Court Branch A/c Rani Devi through Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400) within 30 days.

12. The shares of the appellants in the enhanced award amount along with interest shall be equal.

13. Upon the aforesaid deposit being made, the UCO Bank is directed to release 50% of the enhanced award amount along with interest to the appellants according to their shares and the remaining 50% be kept in fixed deposit for a period of one year with cumulative interest.

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

NOVEMBER 27, 2009
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J.R. MIDHA, J