

IN THE HIGH COURT OF DELHI AT NEW DELHI**+ MAC.APP.No.88/2009**

%

Date of decision: 23rd October, 2009

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

versus

ATTA MOHD. & ORS. Respondents
Through : Mr. Pradeep Gaur, Adv.
for R-3.

CORAM :-**THE HON'BLE MR. JUSTICE J.R. MIDHA**

- | | | |
|----|---|-----|
| 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.12,84,000/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

2. The accident dated 21st April, 2007 resulted in the death of Lalit Kumar. The deceased was survived by his two minor children aged 3½ years and 5 years and the parents who filed the claim petition before the learned Tribunal.

3. The deceased was aged 32 years at the time of the accident and was working as an Accountant earning Rs.8,000/- per month. The learned Tribunal took the future prospects into consideration

by taking average of Rs.8,000/- and Rs.16,000/-. The learned Tribunal deducted 1/2 towards the personal expenses of the deceased and applied the multiplier of 17 to compute the loss of dependency at Rs.12,24,000/-, Rs.50,000/- has been awarded towards loss of love and affection and loss of consortium and Rs.10,000/- towards funeral expenses. The total compensation awarded is Rs 12,84,000/-.

4. The learned counsel for the appellants submit that the personal expenses of the deceased be reduced from 1/2 to 1/4 in terms of the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) Scale 129**. The learned counsel for the appellants also seek compensation for loss of estate.

5. It is well-settled by the Hon'ble Supreme Court in case of **Sarla Verma** (supra) that where the deceased has left behind 3 to 6 legal representatives, the appropriate deduction is 1/4th.

6. The learned counsel for respondent no.3 submits that the personal expenses of the deceased should be taken to be 1/2 and at the most 1/3rd because in a connected case arising out of the same accident relating to the death of the mother of two minor children namely appellants No 1 and 2, the learned Tribunal has awarded compensation towards the death of the mother and, therefore, the personal expenses in this case should be reduced.

7. I do not agree with the contention of learned counsel for respondent no.3. The principle of computation of compensation is

well settled by the Hon'ble Supreme Court in the case of **Sarla Verma** (Supra) and respondent no 3 cannot claim unjust enrichment due to the death of mother of two minor children in another case. According to the learned counsel for the respondent no.3, the children have sufficient funds available with them on account of compensation having been awarded out of the death of their mother. This argument is rejected. The two minor children have lost both their parents in the road accident and the compensation has to be computed according to the well settled principles of law and the objection raised by learned counsel for respondent no.3 is not sustainable.

8. Following the aforesaid judgment of the Hon'ble Supreme Court, the personal expenses of the deceased are reduced from $1/2$ to $1/4^{\text{th}}$. The learned Tribunal has applied the multiplier of 17. However, according to the judgment of **Sarla Verma** (supra), the appropriate multiplier at the age of 32 years is 16. The multiplier is, therefore, reduced from 17 to 16. Taking the income of the deceased to be Rs.12,000/- per month, deducting $1/4^{\text{th}}$ towards the personal expenses and applying the multiplier of 16, loss of dependency is computed to Rs.17,28,000/- (Rs.12,000 x $3/4$ x 12 x 16).

9. The learned Tribunal has not awarded any compensation towards loss of estate. However, since Rs.50,000/- has already been awarded towards loss of love and affection, no further amount is awarded towards loss of estate. The appellants are entitled to total compensation of Rs.17,88,000/- (Rs.17,28,000 +

Rs.50,000 + Rs.10,000).

10. The appeal is allowed and the award amount is enhanced from Rs.12,84,000/- to Rs.17,88,000/- along with interest @7.5% per annum.

11. The enhanced award amount along with interest be deposited by respondent no.3 with UCO Bank, Delhi High Court Branch within 30 days. The deposit be made by means of a cheque drawn in the name of UCO Bank A/c Vansh.

12. The order with respect to disbursement of the award amount shall be passed on the next date of hearing after examining the appellants who are directed to remain present in the court, next date of hearing.

13. List the appeal on 17th December, 2009.

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

J.R. MIDHA, J

OCTOBER 23, 2009

aj