

IN THE HIGH COURT OF DELHI AT NEW DELHI**+ MAC.APP.No.42/2009**

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Date of decision: 19th November, 2009

SHRI BALDEV SINGH & ANR. Appellants
Through : Mr. S.N. Parashar, Adv.

versus

SHRI JASMAIR SINGH & ORS. Respondents
Through : Mr. K.L. Nandwani, 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.4,05,000/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

2. The accident dated 22nd October, 2000 resulted in the death of Virender Singh. The deceased was aged about 21 years at the time of the accident and was carrying on the business of motor parts earning Rs.7,500/- per month. The father of the deceased appeared in the witness box as PW-1 and deposed that his son was Income Tax payee. The Income Tax Return for the year 1999-2000 was exhibited as Ex.P-3 according to which the income of the deceased from the said business was

Rs.53,503/- per annum. PW-1 further deposed that his son had passed Senior Secondary from Guru HarKishan Public School in 1995 and National Trade Certificate course in General Electronics from the Department of Training and Technical Education, Delhi in the year 1999. He also deposed that the income of the deceased would have got tripled during his lifetime if he had not died due to the accident.

3. The learned Tribunal has taken the minimum wages into consideration to compute the loss of dependency of the appellant at Rs.4,05,000/-. The learned Tribunal has not taken Ex.P-3 into consideration. The finding of the learned Tribunal in taking the minimum wages into consideration to compute the compensation is not based on evidence on record and is, therefore, set aside.

4. The income of the deceased is taken to be Rs.53,503/- per annum as per Ex.P-3. The appellants have also successfully proved the future prospects and, therefore, 50% is added towards the future prospects of the deceased.

5. The deceased was unmarried and therefore 50% of the income is deducted towards his personal expenses. The deceased was aged 21 years and his parents were aged 46 and 52 years respectively at the time of accident. The appropriate multiplier at the age of 46 years is 13. However, the learned Tribunal has applied the multiplier of 15 which is reduced to 13. Taking the income of the deceased to be Rs.53,503/-, adding 50% towards future prospects, deducting 50% towards personal expenses and applying the multiplier of 13, the loss of

dependency of the deceased is computed to be Rs.5,21,654/- [(Rs.53,503 + 50% towards future prospects) - 50% towards personal expenses x multiplier of 13].

6. The learned Tribunal has awarded Rs.40,000/- towards loss of love and affection and Rs.10,000/- towards funeral expenses . No compensation has been awarded for loss of estate. Rs.10,000/- is awarded towards loss of estate. The total compensation is computed to be Rs.5,81,654/- (Rs.5,21,654 + Rs.40,000+ Rs.10,000 + Rs.10,000).

7. The appeal is allowed and the award amount is enhanced from Rs.4,05,000 /- to Rs.5,81,654/- along with interest @7.5% per annum from the date of filing of the petition till realization.

8. The enhanced award amount along with interest be deposited by respondent No.3 with UCO Bank Account, Delhi High Court Branch A/c Jagjit Kaur 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.

9. Upon the aforesaid deposit has been made, UCO is directed to release 50% of the said amount to Baldev Singh and Jagjit Kaur by transferring the same to their Saving Bank account.

10. The remaining amount be kept in fixed deposit for a period of one year with cumulative interest.

11. List for compliance on 8th January, 2010.

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

J.R. MIDHA, J

NOVEMBER 19, 2009/sk

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