

Regular

***IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ FAO No.271/2002

Date of Decision: 27th January, 2010

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SMT. ANITA & ORS. Appellant
Through : Mr. O.P. Mannie, Adv.

versus

SHRI SHAMSHER SINGH & ORS. Respondent
Through : Mr. Yashpal Rangi and
Mr. Manjit Singh, Adv. for
R-2 and 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 appellants have challenged the award of the learned Tribunal whereby compensation of Rs.6,40,128/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

2. The accident dated 31st December, 1997 resulted in the death of Sanjay Kumar. The deceased was survived by his widow, son and parents who filed the claim petition before the learned Tribunal.

3. The deceased was aged 27 years at the time of the accident and was working as a Constable with Delhi Police

earning Rs.5,332/- per month. The learned Tribunal took the income of the deceased to be Rs.5,000/- per month, deducted 1/3rd towards the personal expenses and applied the multiplier of 16 to compute the loss of dependency at Rs.6,40,128/-. No compensation has been awarded for loss of consortium, loss of love and affection, loss of estate and funeral expenses.

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

- (i) The future prospects of the deceased be taken into consideration.
- (ii) The personal expenses of the deceased be reduced from 1/3rd to 1/4th.
- (iii) The multiplier be enhanced from 16 to 17.
- (iv) The compensation be awarded for loss of love and affection, loss of estate and loss of consortium and funeral expenses.

5. Following the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) Scale 129**, 50% is added towards future prospects of the deceased, the personal expenses of the deceased are reduced from 1/3rd to 1/4th and the multiplier is enhanced from 16 to 17. Rs.10,000/- is awarded towards loss of consortium, Rs.10,000/- towards loss of love and affection, Rs.10,000/- towards loss of estate and Rs.5,000/- towards funeral expenses. The appellants are

entitled to the total compensation of Rs.12,58,694/-
{[(Rs.5,332 + 50% of Rs.5,332) x 3/4 x 12 x 17] + Rs.10,000
+ Rs.10,000 + Rs.10,000 + Rs.5,000}.

6. The learned counsel for respondents No.2 and 3 submit that the appellants have claimed Rs.10,00,000/- and, therefore, the increase in the award amount should be restricted to Rs.10,00,000/-. It is well settled by the judgment of the Hon'ble Supreme Court in the case of **Nagappa vs. Gurudayal Singh, AIR 2003 SC 674** that the claimants are entitled to just compensation and the amount awarded can exceed the amount claimed.

7. The appeal is allowed and the award amount is enhanced from Rs.6,40,128/- to Rs.12,58,694/-. The learned Tribunal has awarded interest @ 9% per annum which is not disturbed on the original award amount of Rs.6,40,128/-. However, on the enhanced award amount, the rate of interest shall be @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 Nos.2 and 3 with UCO Bank A/c Anita, Delhi High Court Branch by means of a cheque through Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400) within 45 days.

9. Upon the enhanced award amount being deposited, the UCO Bank shall keep a sum of Rs.10,00,000/- in fixed deposit in the following manner:-

- (i) Fixed deposit for Rs.50,000/- in the name of appellant No.3 for a period of six months.
- (ii) Fixed deposit for Rs.50,000/- in the name of appellant No.3 for a period of one year.
- (iii) Fixed deposit for Rs.50,000/- in the name of appellant No.4 for a period of one and half years.
- (iv) Fixed deposit for Rs.50,000/- in the name of appellant No.4 for a period of two years.
- (v) Fixed deposit for Rs.50,000/- in the name of appellant No.1 for a period of six months.
- (vi) Fixed deposit for Rs.50,000/- in the name of appellant No.1 for a period of one year.
- (vii) Fixed deposit for Rs.50,000/- in the name of appellant No.2 for a period of one and a half years.
- (viii) Fixed deposit for Rs.50,000/- in the name of appellant No.2 for a period of two years.
- (ix) Fixed deposit for Rs.50,000/- in the name of appellant No.2 for a period of two and a half years.
- (x) Fixed deposit for Rs.50,000/- in the name of appellant No.2 for a period of three years.

- (xi) Fixed deposit for Rs.50,000/- in the name of appellant No.2 for a period of three and a half years.
- (xii) Fixed deposit for Rs.50,000/- in the name of appellant No.2 for a period of four years.
- (xiii) Fixed deposit for Rs.50,000/- in the name of appellant No.1 for a period of four and a half years.
- (xiv) Fixed deposit for Rs.50,000/- in the name of appellant No.1 for a period of five years.
- (xv) Fixed deposit for Rs.50,000/- in the name of appellant No.1 for a period of five and a half years.
- (xvi) Fixed deposit for Rs.50,000/- in the name of appellant No.1 for a period of six years.
- (xvii) Fixed deposit for Rs.50,000/- in the name of appellant No.1 for a period of six and a half years.
- (xviii) Fixed deposit for Rs.50,000/- in the name of appellant No.1 for a period of seven years.
- (xix) Fixed deposit for Rs.50,000/- in the name of appellant No.1 for a period of seven and a half years.
- (xx) Fixed deposit for Rs.50,000/- in the name of appellant No.1 for a period of eight years.

10. The remaining amount be released to the appellants in equal shares by transferring the said amount to their Saving Bank Account.

11. The interest on the fixed deposits of appellants No.1 and 2 shall be paid monthly by automatic credit of interest in the Savings Account of appellant No.1. However, the interest on the fixed deposits of appellants No.3 and 4 shall be cumulative.

12. Withdrawal from the aforesaid accounts of appellants No.1 and 2 shall be permitted to appellants No.1 and 2 after due verification and the Bank shall issue photo Identity Card to appellants No.1 and 2 to facilitate identity.

13. No cheque book be issued to appellants No.1 and 2 without the permission of this Court.

14. The original fixed deposit receipts shall be retained by the Bank in the safe custody. However, the original Pass Book shall be given to the appellants along with the photocopy of the FDRs.

15. The original fixed deposit receipt shall be handed over to the appellants at the end of the fixed deposit period.

16. No loan, advance or withdrawal shall be allowed on the said fixed deposit receipts without the permission of this Court.

17. Half yearly statement of account be filed by the Bank in this Court.

18. On the request of the appellants, the Bank shall transfer the Savings Account to any other branch of UCO Bank according to the convenience of the appellants.

19. The appellants shall furnish all the relevant documents for opening of the Saving Bank Account and Fixed Deposit Account to Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi.

20. Copy of the order be given dasti to counsel for both the parties under the signature of the Court Master.

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

J.R. MIDHA, J

JANUARY 27, 2010

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