

+ FAO No.127/2000Date of Decision: 18th January, 2010

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UOI & ORS.

..... Appellants

Through : Mr. A.S. Dateer, Adv.

versus

SUDESH RANI

..... Respondent

Through : Mr. Sanjeev Saxena, Adv.
for R-1 & 2.**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.1,44,000/- has been awarded to claimants/respondents No.1 and 2. The appellants seek reduction of the award amount on the ground of composite negligence. Claimants/respondents No.1 and 2 have filed cross-objections seeking enhancement of the award amount.

2. The accident dated 15th February, 1991 resulted in the death of Ram Murti. The deceased was survived by his widow and minor daughter who filed the claim petition before the learned Tribunal.

3. The deceased was aged 39 years at the time of the accident and was running a Kiryana shop earning Rs.4,000/- per month. However, in the absence of sufficient proof of income, the learned Tribunal took the minimum wages of Rs.1,222/- per month. The learned Tribunal took the future prospects into consideration by taking the average of Rs.1,222/- and Rs.2,500/-, deducted Rs.550/- towards the personal expenses of the deceased and applied the multiplier of 10 to compute the loss of dependency at Rs.1,44,000/-. 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 only one ground at the time of hearing of this appeal, namely, that the compensation amount be reduced on the ground of composite negligence of the scooter on which the deceased was sitting as pillion rider. The deceased was sitting on the pillion of two wheeler scooter which was hit by truck bearing No.DIG-551. The FIR was registered against the driver of the truck. The driver of the scooter appeared in the witness box before the learned Tribunal and deposed that the truck came on the wrong side of the road and hit the scooter. The FIR of the case was proved as Ex.PW2/A. On the basis of aforesaid evidence, the learned Tribunal held that the accident occurred due to rash and negligent driving of the appellant's driver. The finding of the learned Tribunal is based on the

evidence on record and is upheld.

5. The learned counsel for claimants/respondents No.1 and 2 has urged the following grounds at the time of hearing of this appeal:-

- (i) The multiplier be enhanced from 10 to 15.
- (ii) The compensation be awarded for loss of consortium, loss of love and affection, loss of estate and funeral expenses.

6. The learned counsel for claimants/respondents No.1 and 2 submits that the deceased was 39 years of age but the learned Tribunal took the age of the deceased as 50 years on the basis of the age recorded in the postmortem report. The learned counsel submits that the age of the deceased recorded in the postmortem report is not the correct age of the deceased.

7. The claimants/respondents No.1 and 2 have led additional evidence before this Court. The deceased had studied in Sarkari High School, Pindwarpal, Amritsar, Punjab and appellant No.1 applied for the copy of the admission register of the school under the Right to Information Act in response to which the reply dated 11th September, 2009 was sent to appellant No.1 and the copy of the admission register was also furnished to her. Appellant No.1 appeared in the witness box and proved the original reply dated 11th September, 2009 as Ex.P-1. The certified copy of the admission register received by appellant No.1 under the

cover of the letter dated 11th September, 2009 was proved as Ex.P-2. The true translation of Ex.P-1 and Ex.P-2 were proved as Ex.P-3 and Ex.P-4. As per Ex.P-2, the date of birth of the deceased is 3rd February, 1952 and according to which the age of the deceased at the time of the accident was 39 years. The age of the deceased is, therefore, held to be 39 years.

8. As per the recent judgment of Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) Scale 129**, the appropriate multiplier at the age of 39 years is 15. The multiplier is, therefore, enhanced from 10 to 15.

9. Taking the monthly dependency of the claimant to be Rs.1,200/- per month, applying the multiplier of 15, the loss of dependency is computed to be Rs.2,16,000/- (Rs.1,200 x 12 x 15).

10. The learned Tribunal has not awarded any compensation for loss of consortium, loss of love and affection, loss of estate and funeral expenses. Rs.10,000/- is awarded for loss of consortium, Rs.10,000/- for loss of love and affection, Rs.10,000/- for loss of estate and Rs.5,000/- for funeral expenses. The total compensation is computed to be Rs.2,51,000/- (Rs.2,16,000 + Rs.10,000 + Rs.10,000 + Rs.10,000 + Rs.5,000).

11. The appeal is dismissed. The cross-objections are allowed and the award amount is enhanced from

Rs.1,44,000/- to Rs.2,51,000/- . The learned Tribunal has awarded interest @ 12% per annum which is not disturbed on the original award amount of Rs.1,44,000/-. 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.

12. The enhanced award amount along with interest be deposited by the appellant with UCO Bank, Delhi High Court Branch A/c Sudesh Rani through Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400) within 30 days.

13. Upon the aforesaid deposit being made, the UCO Bank is directed to keep a sum of Rs.2,00,000/- in fixed deposit with cumulative interest as per the details given hereunder:-

- (i) Fixed deposit Receipt for Rs.25,000/- in the name of respondent No.2 for a period of six months.
- (ii) Fixed deposit Receipt for Rs.25,000/- in the name of respondent No.2 for a period of one year.
- (iii) Fixed deposit Receipt for Rs.25,000/- in the name of respondent No.1 for a period of six months.
- (iv) Fixed deposit Receipt for Rs.25,000/- in the name of respondent No.1 for a period of one year.
- (v) Fixed deposit Receipt for Rs.25,000/- in the name of respondent No.1 for a period of one and a half years.
- (vi) Fixed deposit Receipt for Rs.25,000/- in the name

of respondent No.1 for a period of two years.

(vii) Fixed deposit Receipt for Rs.25,000/- in the name of respondent No.1 for a period of two and a half years.

(viii) Fixed deposit Receipt for Rs.25,000/- in the name of respondent No.1 for a period of three years.

14. The remaining amount be released to claimants/respondents No.1 and 2 by transferring the said amount to their Saving Bank Accounts. The FDRS be also released to respondents No.1 and 2 with an endorsement that no loan or advance be given on the said FDRs without the permission of this Court.

15. List for reporting compliance on 18th February, 2010.

JANUARY 18, 2010
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J.R. MIDHA, J