

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

Date of Decision: 4th February, 2010

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+ FAO.No.323/2001

ABHISHEK KALIA & ORS. Appellants
Through : Mr. Navneet Goyal and
Mr. Varun Kumar, Adv.

versus

URMILA TOMAR & ORS. Respondents
Through : Mr. D.K. Sharma, Adv.
for R-3.

+ FAO.No.325/2001

ABHISHEK KALIA & ORS. Appellants
Through : Mr. Navneet Goyal, Adv.

versus

URMILA TOMAR & ORS. Respondents
Through : Mr. D.K. Sharma, 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 appellants have challenged the award of the learned Tribunal whereby compensation of Rs.5,10,120/- has been awarded in respect of the death of Usha Kaila and Rs.5,70,132/- has been awarded in respect of the death of Krishan Avtar Kaila. The appellants seek enhancement of the award amount.

2. The accident dated 19th March, 1989 resulted in the death of Usha Kaila and her husband, Krishan Avtar Kaila. The deceased were survived by their son and daughter who filed two separate claim petitions before the learned Tribunal. The learned Tribunal passed a common award in respect of both the claim petitions. The appellants were also injured in the same accident and they filed two separate claim petitions for compensation of injuries but the award in respect of compensation for their injuries is not under challenge. The appellants are seeking enhancement of compensation in respect of their parents.

FAO.No.323/2001 relating to the death of Usha Kaila

1. The deceased, Usha Kaila was aged 37 years at the time of the accident and was working with New Bank of India as an Accountant drawing a salary of Rs.4,360.10 per month. The learned Tribunal added 50% towards future prospects and took the income of the deceased to be Rs.6,540/- per month, deducted 1/2 towards personal expenses and applied the multiplier of 13 to compute the loss of dependency at Rs.5,10,120/-. No compensation has been awarded for loss of love and affection, loss of estate and funeral expenses.

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

- (i) The multiplier be enhanced from 13 to 15.
- (ii) The personal expenses of the deceased be reduced from 1/2 to 1/3rd.

(iii) The compensation be awarded for loss of love and affection, loss of estate and funeral expenses.

3. It is well settled by the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) Scale 129** that the appropriate multiplier at the age of 37 years is 15 and the appropriate deduction where the deceased has left behind up to three legal representatives is $\frac{1}{3}^{\text{rd}}$.

4. Following the aforesaid judgment, the multiplier is enhanced from 13 to 15 and the personal expenses of the deceased are reduced from $\frac{1}{2}$ to $\frac{1}{3}^{\text{rd}}$. Rs.10,000/- is awarded towards loss of love and affection, Rs.10,000/- towards loss of estate and Rs.5,000/- towards funeral expenses.

5. Taking the income of the deceased to be Rs.6,540/- per month, deducting $\frac{1}{3}^{\text{rd}}$ towards the personal expenses, applying the multiplier of 15, adding Rs.10,000/- towards loss of love and affection, Rs.10,000/- towards loss of estate and Rs.5,000/- towards funeral expenses, the total compensation is computed to be Rs.8,09,800/- $[(\text{Rs.6,540} \times \frac{2}{3} \times 12 \times 15) + \text{Rs.10,000} + \text{Rs.10,000} + \text{Rs.5,000}]$.

6. The appeal is allowed and the award amount is enhanced from Rs.5,10,120/- to Rs.8,09,800/-. The learned Tribunal has awarded interest @9% per annum which is not disturbed on the original award amount of Rs.5,10,120/-.

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.

7. The enhanced award amount along with interest be deposited by respondent No.3 with UCO Bank, Delhi High Court Branch A/c Archana Kaila 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.

FAO.No.325/2001 relating to the death of Krishan Avtar Kaila

1. The deceased, Krishan Avtar Kaila was aged 40 years, 5 months and 18 days at the time of the accident and was working as officer with Punjab & Sind Bank earning Rs.5279.70 per month. The learned Tribunal added 50% towards future prospects and took the income of the deceased to be Rs.7,918.50 per month, deducted 1/2 towards personal expenses and applied the multiplier of 12 to compute the loss of dependency at Rs.5,70,132/-. No compensation has been awarded for loss of love and affection, loss of estate and funeral expenses.

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

- (i) The multiplier be enhanced from 12 to 14.
- (ii) The personal expenses of the deceased be reduced from 1/2 to 1/3rd.

(iii) The compensation be awarded for loss of love and affection, loss of estate and funeral expenses.

3. It is well settled by the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) Scale 129** that the appropriate multiplier at the age of 40 years is 14 and the appropriate deduction where the deceased has left behind up to three legal representatives is $\frac{1}{3}^{\text{rd}}$.

4. Following the aforesaid judgment, the multiplier is enhanced from 12 to 14 and the personal expenses of the deceased are reduced from $\frac{1}{2}$ to $\frac{1}{3}^{\text{rd}}$. Rs.10,000/- is awarded towards loss of love and affection, Rs.10,000/- towards loss of estate and Rs.5,000/- towards funeral expenses.

5. Taking the income of the deceased to be Rs.7,918.50 per month, deducting $\frac{1}{3}^{\text{rd}}$ towards the personal expenses, applying the multiplier of 14, adding Rs.10,000/- towards loss of love and affection, Rs.10,000/- towards loss of estate and Rs.5,000/- towards funeral expenses, the total compensation is computed to be Rs.9,11,872/-.

6. The appeal is allowed and the award amount is enhanced from Rs.5,70,132/- to Rs.9,11,872/-. The learned Tribunal has awarded interest @9% per annum which is not disturbed on the original award amount of Rs.5,70,132/-. 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.

7. The enhanced award amount along with interest be deposited by respondent No.3 with UCO Bank, Delhi High Court Branch A/c Abhishek Kaila 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.

Common Award

1. Upon the aforesaid deposit being made, UCO Bank is directed to release 5% of the amount to appellant No.1 and 5% to appellant No.2. The remaining amount be kept in fixed deposit in the following manner:-

- (i) Fixed deposit of 5% of the amount in the name of appellant No.1 for a period of six months.
- (ii) Fixed deposit of 5% of the amount in the name of appellant No.2 for a period of six months.
- (iii) Fixed deposit of 5% of the amount in the name of appellant No.1 for a period of one year.
- (iv) Fixed deposit of 5% of the amount in the name of appellant No.2 for a period of one year.
- (v) Fixed deposit of 5% of the amount in the name of appellant No.1 for a period of one and a half years.
- (vi) Fixed deposit of 5% of the amount in the name of appellant No.2 for a period of one and a half

years.

- (vii) Fixed deposit of 5% of the amount in the name of appellant No.1 for a period of two years.
- (viii) Fixed deposit of 5% of the amount in the name of appellant No.2 for a period of two years.
- (ix) Fixed deposit of 5% of the amount in the name of appellant No.1 for a period of two and a half years.
- (x) Fixed deposit of 5% of the amount in the name of appellant No.2 for a period of two and a half years.
- (xi) Fixed deposit of 5% of the amount in the name of appellant No.1 for a period of three years.
- (xii) Fixed deposit of 5% of the amount in the name of appellant No.2 for a period of three years.
- (xiii) Fixed deposit of 5% of the amount in the name of appellant No.1 for a period of three and a half years.
- (xiv) Fixed deposit of 5% of the amount in the name of appellant No.2 for a period of three and a half years.
- (xv) Fixed deposit of 5% of the amount in the name of appellant No.1 for a period of four years.
- (xvi) Fixed deposit of 5% of the amount in the name of appellant No.2 for a period of four years.
- (xvii) Fixed deposit of 5% of the amount in the name of

appellant No.1 for a period of four and a half years.

(xviii) Fixed deposit of 5% of the amount in the name of appellant No.2 for a period of four and a half years.

2. The remaining amount be released to the appellants in equal shares by transferring the same to their respective Saving Bank Accounts.

3. The interest on the aforesaid fixed deposits shall be paid monthly by automatic credit of interest in the respective Savings Account of the appellants.

4. Withdrawal from the aforesaid accounts shall be permitted to the appellant after due verification and the Bank shall issue photo Identity Card to the appellants to facilitate identity.

5. No cheque book be issued to the appellants without the permission of this Court.

6. 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.

7. The original Fixed Deposit Receipts shall be handed over to the appellants on the expiry of the period of the FDRs.

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

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

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

11. 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.

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

13. 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

FEBRUARY 04, 2010

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