

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

+ **FAO 571/2001**

% Date of reserve: 26th March, 2010
Date of Decision: 4th June, 2010

RAM NIWAS SHARMA & ANR Appellants
Through : Mr. M.B. Singh, Adv.

versus

CHANDER PAL & ANR. Respondents
Through : Mr. S.L. Gupta and Mr. Ram
Ashray, Advs. for R-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

1. The appellants have challenged the award of the learned Tribunal whereby compensation of Rs.58,000/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

2. The accident dated 6th June, 1986 resulted in the death of Vijender Kumar. The deceased was survived by his parents who filed the claim petition before the learned Tribunal.

3. The deceased was aged about 23 years at the time of the accident and was working as Mechanic of Refrigeration and Air Conditioning. It was claimed that the deceased was earning Rs.1,500/- per month. The learned Tribunal took the income of the deceased to be 800/-, deducted 1/2 towards the

personal expenses of the deceased and applied the multiplier of 10 to compute the loss of dependency at Rs.48,000/-. The learned Tribunal has awarded Rs.10,000/- towards loss of expectation of life.

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

- (i) The income of deceased be taken as Rs.1,500/-
- (ii) The future prospects be taken into consideration.
- (iii) The multiplier be enhanced from 10 to 13 according to the age of the father of deceased who was 47 years at the time of the accident.
- (iv) The compensation be awarded for loss of love and affection, loss of estate and funeral expenses.

5. The occupation and income of the deceased was proved by PW-1 who deposed that the deceased was a mechanic of refrigeration and air-conditioning earning Rs.1500/- per month. However, in the absence of any documentary proof of income, the Claims Tribunal assumed the income of the deceased to be Rs.800/- per month. The finding of the Claims Tribunal in this regard is fair and reasonable and does not warrant any interference.

6. The Claims Tribunal has not awarded the future prospects and has applied the multiplier of 10 whereas the appropriate multiplier according to the age of the father of the deceased is 13 and 50% has to be added towards the future prospects according to the judgment of the Hon'ble Supreme

Court in the **Sarla Verma Vs. Delhi Transport**

Corporation, 2009 (6) Scale 129. Following the aforesaid judgment, 50% of the income of the deceased is added towards the future prospects and the multiplier is enhanced from 10 to 13.

7. The Claims Tribunal has not awarded any compensation for loss of love and affection, loss of estate and funeral expenses. The Claims Tribunal has awarded Rs.10,000/- towards loss of expectation of life which is not a permissible head and the same is, therefore, treated as compensation for loss of love and affection. Rs.10,000/- is awarded towards loss of estate and Rs.5,000/- towards funeral expenses.

8. Taking the income of the deceased as Rs.800/-, adding 50% towards future prospectus, deducting 1/2 towards personal expenses of the deceased, applying the multiplier of 13, 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 at Rs.1,18,600/- $\{[(Rs.800 + 50\% \text{ of } Rs.800) / 2 \times 12 \times 13] + Rs.10,000 + Rs.10,000 + Rs.5,000\}$.

9. The appeal is allowed and the award amount is enhanced from Rs.58,000/- to Rs.1,18,600/-. The Claims Tribunal has awarded interest @ 9% per annum which is not disturbed on the original award amount of Rs.58,000/-. However, on the enhanced award amount, the rate of interest shall be 7.5% from the date of filing of the petition till realization.

10. The enhanced award amount along with interest be deposited by respondent No.2 with UCO Bank, A/c. Ram Niwas Sharma, Delhi High Court Branch within 30 days.

11. Upon the aforesaid amount being deposited, UCO Bank is directed to release 10% of the said amount to appellants by transferring the same to their joint savings bank account. The remaining amount be kept in the fixed deposit in the joint names of the appellants in the following manner:-

- (i) Fixed deposit in respect of 10% of the amount for a period of six months.
- (ii) Fixed deposit in respect of 10% of the amount for a period of one year.
- (iii) Fixed deposit in respect of 10% of the amount for a period of one and a half years.
- (iv) Fixed deposit in respect of 10% of the amount for a period of two years.
- (v) Fixed deposit in respect of 10% of the amount for a period of two and a half years.
- (vi) Fixed deposit in respect of 10% of the amount for a period of three years.
- (vii) Fixed deposit in respect of 10% of the amount for a period of three and a half years.
- (viii) Fixed deposit in respect of 10% of the amount for a period of four years.
- (ix) Fixed deposit in respect of 10% of the amount for a period of four and a half years.

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

13. Withdrawal from the aforesaid account of the appellants shall be permitted to them after due verification and the Bank shall issue photo Identity Card to appellants to facilitate identity.

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

15. The Bank shall issue Fixed Deposit Pass Book instead of the FDRs to the appellants and the maturity amount of the FDRs be automatically credited to the Saving Bank Account of the beneficiary at the end of the FDR.

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 appellants, the Bank shall transfer the joint Savings Account to any other branch according to the convenience of the appellants.

19. The appellants shall furnish all the relevant documents for opening of the joint 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 signatures 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.

JUNE 04, 2010
s.pal

J.R. MIDHA, J