

ORIENTAL INSURANCE CO.LTD. Appellant
Through : Mr. Ram N. Sharma, Adv.

versus

SUMITRA & OTHERS Respondents
Through : Mr. Anshuman Bal, Adv.
for R-1 to 4.

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 appellant has challenged the award of the learned Tribunal whereby compensation of Rs.5,65,000/- has been awarded to claimants/respondents No.1 to 4.

2. The accident dated 26th May, 1995 resulted in the death of Ram Karan. The deceased was survived by his widow, two minor children 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 helper. However, in the absence of any documentary proof, the learned Tribunal took the income of the deceased as Rs.2,500/-, added 50%

towards the future prospects, deducted 1/4th towards the personal expenses and applied the multiplier of 17 to compute the loss of dependency at Rs.5,40,000/-. Rs.20,000/- has been awarded towards loss of love and affection and Rs.5,000/- towards funeral expenses. The total compensation awarded is Rs.5,65,000/-.

4. The only ground urged by the learned counsel for the appellant at the time of hearing of this appeal is that the income of the deceased be taken to be equivalent to minimum wages of Rs.1,459/- per month instead of Rs.2,500/- per month.

5. The learned counsel for the claimants in reply submit that the appellant does not have any permission under Section 170 of the Motor Vehicles Act. It is also submitted that the Claims Tribunal has not awarded any compensation for loss of consortium and loss of estate. The learned counsel further submits that the interest awarded by the Claims Tribunal is on a lower side as the appropriate rate of interest at the time of passing of the award was 9% per annum.

6. The minimum wages at the time of the accident were Rs.1,495/- per month and in the absence of any documentary proof of income, the learned Tribunal ought to have taken the minimum wages of Rs.1,495/- per month. Taking the income of the deceased to be Rs.1,495/- per month, adding 50% towards the increase in minimum wages due to inflation

and rise and price index, the income for computation of compensation is taken to be Rs.2,242.50 per month $[(Rs.1,495 + Rs.2,990)/2]$. $1/4^{th}$ is deducted towards the personal expenses of the deceased and the multiplier of 17 is applied to compute the loss of dependency at Rs.3,43,102.50 $(Rs.2,242.50 \times 3/4 \times 12 \times 17)$. Rs.10,000/- is awarded for loss of consortium and Rs.10,000/- for loss of estate. The claimants are entitled to total compensation of Rs.3,88,102.50 $(Rs.3,43,102.50 + Rs.20,000 + Rs.5,000 + Rs.10,000 + Rs.10,000)$. The rate of interest is enhanced from 6% per annum to 9% per annum.

7. The appeal is partially allowed and the award amount is reduced from Rs.5,65,000/- to Rs.3,88,102.50 along with interest @ 9% per annum from the date of filing of the claim petition, i.e. 16th December, 1995 up to the notice of deposit under Order XXI Rule 1 of the Code of Civil Procedure.

8. The learned counsel for the appellant submits that the award amount was deposited with the Claims Tribunal in terms of the award and 50% of the same has been paid to the claimants. The learned counsel further submits that the claimants have also received the interim award amount.

9. The learned counsel for the claimants submit that 50% award amount along with interest was attached through execution proceedings but the same was not disbursed by the Claims Tribunal in view of the ex-parte stay order dated 31st May, 2004 and the claimants have not received any

amount. It is submitted that the claimants have not even received the interim award.

10. In the facts and circumstances of this case, the appellant is directed to deposit the entire award amount along with up to date interest with UCO Bank A/c Sumitra within 30 days. The appellant shall be entitled to adjust the interim award amount only if the same has been received by the claimants. The expired cheques, if any, lying with the Claims Tribunal be returned back to the appellant within two weeks.

11. Upon the aforesaid deposit being made, the UCO Bank is directed to release 10% of the same to claimants/respondents No.1 to 4 in equal shares by transferring the said amount to their respective Saving Bank Account. The remaining amount be kept in fixed deposit in the following manner:-

- (i) Fixed deposit of 10% of the amount in the name of respondent No.4 for a period of six months.
- (ii) Fixed deposit of 10% of the amount in the name of respondent No.2 for a period of one year.
- (iii) Fixed deposit of 10% of the amount in the name of respondent No.3 for a period of one and a half years.
- (iv) Fixed deposit of 10% of the amount in the name of respondent No.1 for a period of two years.
- (v) Fixed deposit of 10% of the amount in the name

of respondent No.4 for a period of two and a half years.

(vi) Fixed deposit of 10% of the amount in the name of respondent No.2 for a period of three years.

(vii) Fixed deposit of 10% of the amount in the name of respondent No.3 for a period of three and a half years.

(viii) Fixed deposit of 10% of the amount in the name of respondent No.1 for a period of four years.

(ix) Fixed deposit of 10% of the amount in the name of respondent No.1 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 respective Savings Account of respondents No.1 to 4.

13. Withdrawal from the aforesaid account shall be permitted to respondents No.1 to 4 after due verification and the Bank shall issue photo Identity Card to respondents No.1 to 4 to facilitate identity.

14. No cheque book be issued to respondents No.1 to 4 without the permission of this Court.

15. The Bank shall issue Fixed Deposit Pass Book instead of the FDRs to respondents No.1 to 4 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 respondents No.1 to 4, the Bank shall transfer the Savings Account to any other branch according to the convenience of respondents No.1 to 4.

19. Respondents No.1 to 4 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. List for reporting compliance on 7th May, 2010.

21. Copy of this order be sent to the Claims Tribunal for immediate release of expired cheques, if any, lying deposited with it to the appellant within a period of two weeks.

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

23. 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

MARCH 09, 2010
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