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* IN THE HIGH COURT OF DELHI AT NEW DELHI

MAC App. No.358/2007

Date of Decision: September 30, 2010

SUMAN LATA & ORS Appellants
through Mr. M.B.Singh, Advocate

versus

KHANNA JEWELLERS (P) LTD & ORS Respondents
through Mr. L.K.Tyagi, Advocate for respondent
No.3.

CORAM:
HON'BLE MISS JUSTICE REKHA SHARMA

1. Whether the reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether the judgment should be reported in the 'Digest'?

REKHA SHARMA, J. (ORAL)

This appeal has been preferred by the widow, son and parents of Shri Umer Singh who sustained injuries in a road accident on December 25, 1997 resulting in his death on January 14, 2002. He remained in a state of Coma since the date of the accident till his death. He was working as a Constable in Delhi Police and as on April, 2000 he was drawing a salary of ₹ 6,444/- per month. The learned Motor Accident Claims Tribunal for the purpose of calculating compensation payable to the appellants took ₹ 6,444/- as the basis of the income of the deceased who was 34 years of age at the time of his

death and after deducting $1/3^{\text{rd}}$ from his said income towards his personal expenses took the balance of ₹ 4,296/- per month as the dependency of the appellants upon him. The annual dependency was worked out by multiplying the sum of ₹ 4,296/- with figure 12 and the total compensation was worked out by multiplying the figure of annual dependency with the multiplier of 17. The total dependency so calculated came to ₹ 8,76,384/-. In addition, a sum of ₹ 1,05,000/- was awarded towards the amount spent on medicines, ₹ 63,000/- towards special diet, ₹ 25,000/- for conveyance, ₹ 36,000/- for attendants, ₹ 66,231/- recovered towards overpayment due to non-availability of any kind of leaves at his credit, ₹ 5,000/- towards funeral expenses and ₹ 20,000/- towards loss of love and affection. The total came to ₹ 11,96,615/- which the appellants were held entitled to along with interest thereon @ 6% per annum from the date of filing of the petition, i.e. November 27, 1998 till realization.

It is submitted by the learned counsel for the appellants that the deceased was a permanent Government employee and that in terms of the judgment of the Supreme Court in the case of *Sarla Verma and others Vs. Delhi Transport Corporation and another*, reported in (2009) 6 Supreme Court Cases 121, while calculating the dependency upon the deceased, the Claims Tribunal was also required to consider the future prospects of the deceased which it did not do. Hence, it is contended that the appellants have not been awarded just and fair compensation.

It is not disputed by learned counsel for the Insurance Company that while calculating compensation payable to the dependents of such

victims of the accident who were holding a permanent job, 50% is liable to be added to their existing salary/income. It is also not disputed that since, in the present case, the Claims Tribunal has not taken into consideration the future prospects, the impugned award is liable to be corrected. However, it is submitted by the learned counsel for the Insurance Company that before that is done, two deductions are required to be made from the salary of ₹ 6,244/- and those are, ₹ 130/- that was paid to him towards conveyance & transport allowance and, ₹ 20/- as washing allowance. The learned counsel for the appellants does not dispute this submission of the learned counsel for the Insurance Company. In this view of the matter, the basis of the income of the deceased is taken as ₹ 6,294/- instead of ₹ 6,444/-.

The counsel for the Insurance Company also submits that the Claims Tribunal has wrongly applied the multiplier of 17, while as per the judgment of the Supreme Court in *Sarla Verma's* case (supra), the multiplier of 16 is applicable to this case. To this also, the learned counsel for the appellants has no objection.

It is not disputed by the learned counsels for either side that if the basis of the salary/income of the deceased is taken as ₹ 6,294/- and 50% is added to it by way of future prospects, the total monthly income of the deceased would come to ₹ 9,441/-. The dependency of the appellants after deducting 1/3rd towards personal expenses of the deceased would come to ₹ 6,294/- per month. The said sum on being multiplied by figure 12 and then by the multiplier of 16 will give the total compensation payable to the appellants which works out to ₹ 12,08,448/-. The difference between the compensation awarded by

the Claims Tribunal and as worked out now comes to ₹ 3,32,064/-. The appellants, thus, are entitled to this additional sum of ₹ 3,32,064/- along with interest thereon, i.e. ₹ 3,32,064/- @ 7.5% per annum from the date of filing of the petition till realization. The Insurance Company is directed to pay the additional amount within four weeks from now.

The appeal is disposed of.


REKHA SHARMA, J

SEPTEMBER 30, 2010
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