

+ MAC.APP.No.48/2005Date of Decision : 23rd March, 2010

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ORIENTAL INSURANCE CO. LTD. Appellant
Through : Ms. Manjusha Wadhwa, Adv.

versus

SAMLA DEVI & ORS. Respondents
Through : Mr. O.P. Mannie, Adv.
for R-1 to 5.

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.4,38,000/- has been awarded to the claimants/respondents No. 1 to 5.

2. The accident dated 14th June, 1993 resulted in the death of Raja Ram. The deceased was survived by his widow, three sons and father who filed the claim petition before the learned Tribunal.

3. The deceased was aged 28 years at the time of the accident and was selling milk. The learned Tribunal took the income of the deceased as 3,000/-, deducted 1/3rd towards the personal expenses of the deceased and applied the

multiplier of 17 to compute the loss of dependency at

Rs.4,08,000/-. The learned Tribunal has awarded Rs.30,000/- towards loss of consortium, funeral expenses and mental pain and agony. The learned Tribunal has awarded total compensation of Rs.4,38,000/- to the claimants.

4. The only ground urged by the learned counsel for the appellant at the time of hearing of this appeal is that the appellant received the notice of the claim petition from the Claims Tribunal on 30th May, 2002 and therefore the appellant is liable to pay the interest from 30th May, 2002 up to the date of deposit of the award amount whereas the Claims Tribunal has awarded the interest from the date of filing of the claim petition i.e. 12th July, 1993.

5. The deceased was survived by five legal representatives and, therefore, the appropriate deduction towards the personal expenses is 1/4th whereas the Claims Tribunal has taken the deduction towards personal expenses as 1/3rd. If the deduction towards personal expenses is taken as 1/4th, the loss of dependency would be computed as Rs.4,59,000/- (Rs.3,000 x 3/4 x 17 x 12). The Claims Tribunal has also not awarded any compensation for loss of love and affection and loss of estate. Taking the compensation of Rs.10,000/- towards loss of love and affection and Rs.10,000/- towards loss of estate, the award warrants enhancement by Rs.71,000/-. That apart the appellant has not been able to show what steps have been taken by them after receipt of summons from the Claims Tribunal to

compute the compensation payable to claimants in accordance with law. It is well settled that the compensation becomes due and payable from the time of accident but the interest is imposed from the date of filing of the claim petition. In that view of the matter, no interference of the award is called for.

6. In the facts and circumstances of this case, the appeal is dismissed.

7. It is also noted that though the appellant has only disputed the liability to pay interest from the date of filing of the claim petition till the notice was received by them from the Claims Tribunal, the appellant obtained ex-parte stay from this Court on 24th January, 2005 in respect of the entire award amount and the claimants have been deprived even of the admitted amount till today, resulting in irreparable injustice.

9. Respondents No. 1, 3 and 4 are present in Court. Respondent No. 5 has already expired and his rights have devolved upon respondents No.1 to 4. The respondents are permanent resident of village Massipur. The respondents are without any compensation for the last 17 years and injustice caused to them due to this appeal is irreparable.

10. The appellant has deposited a sum of Rs.7,62,517/- with UCO Bank, Delhi High Court Branch A/c Samla Devi in terms of the order dated 19th January, 2010.

11. The Claims Tribunal has sent the expired cheques to

this Court. Let the same be handed over by the Court Master to learned counsel for the appellant against receipt. The photocopy of the same be retained by this Court.

12. The amount deposited by the appellant covers the interest up to the date of deposit, i.e., 26th August, 2005. The dispute of the appellant in this appeal related only to the interest for a period of nine years but the appellant obtained stay on the release of the entire award amount by the Claims Tribunal to the claimants.

13. In that view of the matter, the appellant is liable to pay interest @ 7.5% per annum for the said period in terms of the judgments of this Court in the cases of **Haryana Engineering & Foundry Water vs. UOI, 1998(47) DRJ 172; MANU/DE/1171/1998, Delhi Development Authority vs. Bhai Sardar Singh & Sons, 158(2009) DLT; 2009(109) DRJ 384** and **M/s Engineering Projects India Ltd. vs. Arvind Construction Co. Ltd., MANU/DE/0744/2009.**

14. The appellant is directed to deposit the interest on the principal award amount with effect from 26th August, 2005 up to this date. The interest be deposited with the UCO Bank, Delhi High Court Branch A/c Samla Devi within a period of four weeks.

15. Claimants/respondents No.1 to 4 are permanent residents of Allahabad and they submit that State Bank of Allahabad is convenient to them and the amount be

permitted to be remitted/transferred to their Saving Bank Account with State Bank of Allahabad.

16. The UCO Bank is directed to release a sum of Rs.62,517/- to respondent No.1 by transferring the same to her Saving Bank Account with State Bank of Allahabad.

17. The remaining amount of Rs.7,00,000/- be kept in fixed deposit in the following manner:-

- (i) Fixed deposit for Rs.50,000/- in the name of respondent No.2 for a period of six months.
- (ii) Fixed deposit for Rs.50,000/- in the name of respondent No.3 for a period of one year.
- (iii) Fixed deposit for Rs.50,000/- in the name of respondent No.4 for a period of one and a half years.
- (iv) Fixed deposit for Rs.50,000/- in the name of respondent No.1 for a period of two years.
- (v) Fixed deposit for Rs.50,000/- in the name of respondent No.2 for a period of two and a half years.
- (vi) Fixed deposit for Rs.50,000/- in the name of respondent No.3 for a period of three years.
- (vii) Fixed deposit for Rs.50,000/- in the name of respondent No.4 for a period of three and a half years.
- (viii) Fixed deposit for Rs.50,000/- in the name of respondent No.1 for a period of four years.

- (ix) Fixed deposit for Rs.50,000/- in the name of respondent No.1 for a period of four and a half years.
- (x) Fixed deposit for Rs.50,000/- in the name of respondent No.1 for a period of five years.
- (xi) Fixed deposit for Rs.50,000/- in the name of respondent No.1 for a period of five and a half years.
- (xii) Fixed deposit for Rs.50,000/- in the name of respondent No.1 for a period of six years.
- (xiii) Fixed deposit for Rs.50,000/- in the name of respondent No.1 for a period of six and a half years.
- (xiv) Fixed deposit for Rs.50,000/- in the name of respondent No.1 for a period of seven years.

18. With respect to the balance interest to be deposited by the appellant with UCO Bank, the UCO Bank is directed to release 50% of the same to respondent No.1 by transferring the same to her Saving Bank Account with State Bank of Allahabad and the remaining amount be kept in fixed deposit for a period of eight years.

19. The interest on the aforesaid fixed deposits shall be paid monthly by automatic credit of interest in the Savings Account of respondent No.1.

20. Withdrawal from the aforesaid account shall be permitted to respondent No.1 after due verification and the

Bank shall issue photo Identity Card to respondent No.1 to facilitate identity.

21. No cheque book be issued to respondent No.1 without the permission of this Court.

22. The Bank shall issue Fixed Deposit Pass Book instead of the FDRs to respondent No.1 and the maturity amount of the FDRs be automatically credited to the Saving Bank Account of the beneficiary at the end of the FDRs.

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

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

25. On the request of respondent No.1, the Bank shall transfer the Savings Account to any other branch according to the convenience of respondent No.1.

26. 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.

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

28. 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 23, 2010/hl/mk