

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

+ MAC.APP.No.51/2005

Date of Decision:25th May, 2010

%

ORIENTAL INSURANCE CO. LTD. Appellant
Through : Mr. A.K. Soni, Adv.
versus

KIRAN KOUL AND ORS. Respondents
Through : Mr. Rakesh Bhardwaj, Adv.
for R-1 to 4.

**CORAM :-
THE HON'BLE MR. JUSTICE J.R. MIDHA**

- | | | |
|----|---|------------|
| 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 the compensation of Rs.18,79,800/- has been awarded to claimants/respondents No.1 to 4. The appellant is seeking reduction of the award amount. Claimants/respondents No.1 to 4 have filed cross-objections seeking enhancement of the award amount.

2. The accident dated 1st April, 1999 resulted in the death Arun Koul. The deceased was survived by his widow, two daughters and mother who filed the claim petition before the Claims Tribunal.

3. The deceased was aged 36 years at the time of the accident and was working as Senior Analyst with Sriram Institute for Industrial Research drawing Rs.9,659/- per month. The learned Tribunal added 50% towards the future prospects, deducted $\frac{1}{3}^{\text{rd}}$ towards his personal expenses and applied the multiplier of 16 to compute the loss of dependency at Rs.18,44,800/-. Rs.10,000/- has been awarded towards loss of consortium, Rs.10,000/- towards loss of love and affection, Rs.10,000/- towards loss of expectancy of life and Rs.5,000/- towards funeral expenses. The total compensation awarded is Rs.18,79,800/-.

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

- (i) The multiplier be reduced from 16 to 15.
- (ii) The rate of interest be reduced from 9% to 7.5%.

5. The learned counsel for claimants/respondents No. 1 to 4 has urged the following grounds at the time of hearing of this appeal:-

- (i) The personal expenses of the deceased be reduced from $\frac{1}{3}^{\text{rd}}$ to $\frac{1}{4}^{\text{th}}$.

6. The deceased was aged 36 years at the time of the accident and was survived by four legal representatives namely his widow, two daughters and mother. According to the judgment of Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) Scale 129**, the multiplier at the age of 36 is 15 and the appropriate

deduction towards personal expenses is $\frac{1}{4}^{\text{th}}$ as the deceased is left behind four legal representatives. Following the aforesaid judgment, the multiplier is reduced from 16 to 15 and the personal expenses of the deceased are reduced from $\frac{1}{3}^{\text{rd}}$ to $\frac{1}{4}^{\text{th}}$.

7. Taking the income of the deceased as Rs.9,659/- per month, adding 50% towards future prospects, deducting $\frac{1}{4}^{\text{th}}$ towards personal expenses and applying the multiplier of 15, the loss of dependency is computed to be Rs.19,55,947.50 $[(9,659 + 4829.50 \times \frac{3}{4} \times 12 \times 15)]$. Adding Rs.10,000/- towards loss of consortium, 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.19,90,947.50 (Rs.19,55,947.50 + 10,000 + 10,000 + 10,000 + 5,000).

8. The appeal as well as the cross-objections are allowed. The award amount is enhanced from Rs.18,79,800/- to Rs.19,90,947.50. The Claims Tribunal has awarded interest @9% per annum which is not disturbed in the original award. However, on the enhanced award amount, the rate of interest shall be 7.5% per annum from the date of filing till realization.

9. The enhanced award amount along with interest be deposited by the appellant with UCO Bank A/c Kiran Kaul, Delhi High Court Branch, within 30 days. Upon the aforesaid

amount being deposited, the UCO Bank is directed to release the enhanced award amount to respondent No.1 by transferring the said amount to her Savings Bank Account.

10. With respect to the award amount awarded to the Claims Tribunal, the appellant deposited a sum of Rs.12,00,000/- with the Claims Tribunal which has been released to the claimants/respondents No.1 to 4. The appellant deposited a further amount of Rs.11,65,470/- with UCO Bank Delhi High Court Branch in terms of order dated 7th October, 2009 and the same was directed to be kept in fixed deposit for a period of five years on which monthly interest is being paid to respondent No.1. UCO Bank is directed to discharge the said fixed deposit receipt and issue ten fresh fixed deposit receipts in the following manner:-

- (i) Fixed deposit in respect of 10% of the said amount in the name of respondent No.2 for a period of one year.
- (ii) Fixed deposit in respect of 10% of the said amount in the name of respondent No.2 for a period of two years.
- (iii) Fixed deposit in respect of 10% of the said amount in the name of respondent No.2 for a period of three years.

- (iv) Fixed deposit in respect of 10% of the said amount in the name of respondent No.3 for a period of four years.
- (v) Fixed deposit in respect of 10% of the said amount in the name of respondent No.3 for a period of five years.
- (vi) Fixed deposit in respect of 10% of the said amount in the name of respondent No.3 for a period of six years.
- (vii) Fixed deposit in respect of 10% of the said amount in the name of respondent No.1 for a period of seven years.
- (viii) Fixed deposit in respect of 10% of the said amount in the name of respondent No.1 for a period of eight years.
- (ix) Fixed deposit in respect of 10% of the said amount in the name of respondent No.1 for a period of nine years.
- (x) Fixed deposit in respect of 10% of the said amount in the name of respondent No.1 for a period of ten years.

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

12. Withdrawal from the aforesaid account shall be permitted to appellant No.1 after due verification and the Bank shall issue photo Identity Card to respondent No.1 to facilitate identity.

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

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

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

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

17. 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.

18. The appellant Nos.1 to 3 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.

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

20. 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.

MAY 25, 2010
HL

J.R. MIDHA, J