

+ MAC.APP.No.627/2006Date of Decision: 25th March, 2010

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NISHA SHARMA & ORS. Appellants
Through : Mr. O.P. Mannie, Adv.

versus

DEO NATH MISHRA & ORS. Respondents
Through : Mr. Pankaj Seth, Adv.

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.12,97,000/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

2. The accident dated 11th February, 2005 resulted in the death of Shyam Rattan. The deceased was survived by his widow, three sons and mother who filed the claim petition before the learned Tribunal.

3. The deceased was aged 39 years and 7 months at the time of the accident and was working as a Constable in Delhi Police drawing a salary of Rs.10,904/- per month. The

learned Tribunal deducted Rs.4,360/- towards GPF, CGEGIS, DPWS and Education Fund, added 50% towards future prospects, deducted 1/3rd towards personal expenses of the deceased and applied the multiplier of 16 to compute the loss of dependency at Rs.12,56,544/-. Rs.15,000/- has been awarded towards loss of consortium, Rs.15,000/- towards loss of love and affection and Rs.10,000/- towards funeral expenses. The total compensation awarded is Rs.12,97,000/-.

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

- (i) The deduction of Rs.4,360/- towards GPF, CGEGIS, DPWS and Education Fund be set aside.
- (ii) The personal expenses of the deceased be reduced from 1/3rd to 1/4th.
- (iii) The compensation be awarded for loss of estate.

5. The learned counsel for respondent No.3 in reply submits that the appropriate multiplier at the age of 39 years and 7 months is 15 according to the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) Scale 129** and, therefore, the multiplier be reduced.

6. The Claims Tribunal has deducted Rs.4,360/- towards GPF, CGEGIS, DPWS and Education Fund. The income of the deceased as per the salary slip – Ex.PW1/A is Rs.10,904/- as per break-up given hereunder:-

	Dues		Deductions		Recoveries
Basic Pay	4400	GPF Contri.	4000	D.P.W.S.	150
Dearness Pay	2200	C.G.E.G.I.S.	30	Edn. Fund	180
Personal Pay	75		0		0
D.A.	924		0		0
C.C.A.	300		0		0
H.R.A.	1980		0		0
Tran. Allow.	100		0		0
Wash. Allow.	20		0		0
Comp. H.R.A.	181		0		0
Mtro.P. Allow.	60		0		0
Ration Money	634		0		0
Conv. Allow.	30		0		0
Total	10904		4030		330
				Net Payable	6544

7. Out of the said amount, only transport allowance of Rs.100/-, washing allowance of Rs.20/-, Metro. P. allowance of Rs.60/-, CGEGIS of Rs.30/-, DPWS of Rs.150/- and conveyance allowance of Rs.30/- are deductible. The Claims Tribunal erred in deducting the GPF and Education Fund which forms part of the salary of the deceased. After making the aforesaid deductions, the income of the deceased for computation of compensation is computed to be Rs.10,514/-.

8. The deceased was aged 39 years and 7 months at the time of the accident and was survived by five legal representatives. According to the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma** (supra), 50% has to be added towards future prospects, 1/4th has to be

deducted towards personal expenses and the multiplier of 15 is applicable. Following the aforesaid judgment, the personal expenses of the deceased are reduced from 1/3rd to 1/4th and the multiplier is reduced from 16 to 15. Taking the income of the deceased as Rs.10,514/- per month, adding 50% towards future prospects, deducting 1/4th towards personal expenses and applying the multiplier of 15, the loss of dependency is computed to be Rs.21,29,085/- [(Rs.10,514 + 50% of Rs.10,514) x 3/4 x 12 x 15].

9. The Claims Tribunal has not awarded any compensation for loss of estate. Rs.10,000/- is awarded towards loss of estate. The claimants are entitled to total compensation of Rs.21,79,085/- (Rs.21,29,085 + Rs.15,000 + Rs.15,000 + Rs.10,000 + Rs.10,000).

10. The learned counsel for respondent No.3 submits that appellant No.1 has got job in Delhi Police on compassionate ground and, therefore, the award amount is liable to be reduced. Appellant No.1 is getting the salary for rendering services to Delhi Police and is not getting any amount free of cost sitting at home and, therefore, no deduction is permissible on this ground.

11. The appeal is allowed and the award amount is enhanced from Rs.12,97,000/- to Rs.21,79,085/-. The learned Tribunal has awarded interest @ 8% per annum which is not disturbed on the original award amount of Rs.12,97,000/-. However, on the enhanced award amount,

the rate of interest shall be @7.5% per annum from the date of filing of the petition up to the date of notice of deposit under Order XXI Rule 1 of the Code of Civil Procedure.

12. The enhanced award amount along with interest be deposited by respondent No.3 with UCO Bank A/c Nisha Sharma, Delhi High Court Branch through Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400) within 30 days.

13. Upon the aforesaid deposit being made, UCO Bank is directed to release 10% of the same equally to appellants No.1 and 2 by transferring the same to their respective Saving Bank Account. The remaining amount be kept in fixed deposit in the following manner:-

- (i) Fixed deposit in respect of 10% of the award amount in the name of appellants No.1 for a period of one year.
- (ii) Fixed deposit in respect of 10% of the award amount in the name of appellants No.2 for a period of two years.
- (iii) Fixed deposit in respect of 10% of the award amount in the name of appellants No.3 for a period of three years.
- (iv) Fixed deposit in respect of 10% of the award amount in the name of appellants No.4 for a period of four years.
- (v) Fixed deposit in respect of 10% of the award

amount in the name of appellants No.5 for a period of five years.

(vi) Fixed deposit in respect of 10% of the award amount in the name of appellants No.1 for a period of six years.

(vii) Fixed deposit in respect of 10% of the award amount in the name of appellants No.3 for a period of seven years.

(viii) Fixed deposit in respect of 10% of the award amount in the name of appellants No.4 for a period of eight years.

(ix) Fixed deposit in respect of 10% of the award amount in the name of appellants No.5 for a period of nine years.

14. The interest on the aforesaid fixed deposits shall be paid monthly by automatic credit of interest in the Savings Account of the appellants No.1 to 5.

15. Withdrawal from the aforesaid account shall be permitted to appellants No.1 to 5 after due verification and the Bank shall issue photo Identity Card to appellants No.1 to 5 to facilitate identity.

16. No cheque book be issued to appellants No.1 to 5 without the permission of this Court.

17. The Bank shall issue Fixed Deposit Pass Book instead of the FDRs to appellants No.1 to 5 and the maturity amount of

the FDRs be automatically credited to the Saving Bank Account of the beneficiary at the end of the FDR.

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

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

20. On the request of appellants No.1 to 5, the Bank shall transfer the Savings Account to any other branch of UCO Bank according to the convenience of appellants No.1 to 5.

21. The appellants 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 (Mobile No. 09310356400).

22. List for reporting compliance on 10th May, 2010.

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

24. 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.

MARCH 25, 2010

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J.R. MIDHA, J