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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Mac. Appeal No.358 of 2010 & C.M. Appl. Nos.10671-10674 of 2010

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04.06.2010

HARYANA ROADWAYS

..... Appellant

Through: Mr. Asheesh Jain, Advocate.

Versus

RAJENDRA SINGH BIST & ORS.

..... Respondents

Reserved on: 1st June, 2010
Pronounced on: 4th June, 2010

JUSTICE SHIV NARAYAN DHINGRA

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 judgment should be reported in Digest? Yes.

J U D G M E N T

1. This appeal has been preferred by Haryana Roadways assailing award dated 25th January, 2010 whereby the Tribunal awarded a compensation of Rs.25,05,000/- to the claimants with interest @ 9 per cent per annum from the date of filing of petition till realization. Of the various grounds raised by the appellant in the memorandum of appeal, at the time of admission, counsel for the appellant only pressed the issue of Tribunal taking into account the salary as revised by the Pay Commission instead of taking the actual salary of the deceased while computing compensation.

2. It is to be noted that the bus in question which caused accident was duly insured and the liability to pay the compensation is that of the insurance company. The appellant, being the owner, has assailed the quantum of compensation granted by the Tribunal on the ground of the Tribunal taking into account the revised salary as per Pay Commission instead of taking actual salary. The accident in this case had taken place on 2nd February, 2007. The deceased at that time was working as Subedar Major with CRPF and was stated to be drawing a salary of Rs.18,000/- per month. The Pay Commission Report

revising salaries had come in the year 2009 and it was made effective from 1st January, 2006. Before the Tribunal, a proof of re-fixation of salary of the deceased was produced as Exhibit PW 4/A which showed that his salary was re-fixed at Rs.19,700/- after the pay revision in terms of Pay Commission Report. The Tribunal after deducting income tax and 1/3rd towards personal expenses from this, calculated the compensation as per parameters laid down by the Supreme Court in *Sarla Varma & Ors. vs. Delhi Transport Corporation & Anr.*; (2009) 6 SCC 121.

3. I consider that contention of the appellant that the Tribunal should have not taken into account the revised salary for calculating compensation is not tenable. The actual income of the deceased had to be taken into account for calculating compensation. Since Pay Commission recommendations had been implemented with effect from 1st January, 2006, the salary of the deceased stood revised from 1st January, 2006 and on the date of death, although the Pay Commission Report had not come, but his salary stood revised because of the fact that Pay Commission recommended for revision of salaries with effect from 1st January, 2006. I, therefore, consider that the Tribunal rightly took into account the revised salary of the deceased for computing compensation. The plea of the counsel that revised salary as per the recommendations of Pay Commission could not be taken into account holds no ground when the subsequent recommendations are made applicable prior to the date of accident. However, if the recommendations of the Pay Commission had been made effective after the date of accident, this plea would have substance.

4. I, therefore, dismiss this appeal *in limine*.

SHIV NARAYAN DHINGRA, J.

JUNE 04, 2010
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