

+ MAC.APP.No.519/2007Date of Decision : 17th March, 2010

%

INDRO & ORS

..... Appellants

Through : Mr. O.P. Mannie, Adv.

versus

SATISH & ORS

..... Respondents

Through : Mr. R.K. Bachchan, Adv.

for R-1 & 2.

Mr. Abhishek Kumar and
Mr. Birander Singh, Advs.
for R-3.**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 appellants have challenged the award of the learned Tribunal whereby compensation of Rs.6,00,000/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

2. The accident dated 29th August, 2002 resulted in the death of Ishwar Singh. The deceased was survived by his widow, three minor daughters and one minor son who filed the claim petition before the learned Tribunal.

3. The deceased was aged 35 years at the time of the accident and was working as a driver with Municipal

Corporation of Delhi drawing a salary of Rs.2,948/- per month. The deceased was also holding agricultural land and was having agricultural income of Rs.2,000/- per month. The learned Tribunal took the income of the deceased as Rs.2,189/- per month, added Rs.2,000/- towards agricultural income, deducted $\frac{1}{3}$ rd towards his personal expenses and applied the multiplier of 17 to compute the loss of dependency at Rs.5,69,568/-. Rs.30,432/- has been awarded for loss of consortium, loss of love and affection and funeral expenses. The total compensation awarded is Rs.6,00,000/-.

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

- (i) The salary of the deceased be taken as Rs.2,948/- per month.
- (ii) 50% be added towards the future prospects of the deceased.
- (iii) The personal expenses of the deceased be reduced from $\frac{1}{3}$ rd to $\frac{1}{4}$ th.
- (iv) The compensation be awarded for loss of estate.

5. The learned counsel for respondent No.3, in reply, submits that the multiplier is liable to be reduced from 17 to 16 in terms of the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) Scale 129.**

6. The appellants has placed on record the salary certificate dated 19th September, 2003 issued by the Municipal Corporation of Delhi whereby the salary of the deceased has been certified by the Superintendent of MCD to be Rs.2,948/- per month. The salary of the deceased is taken to be Rs.2,948/- per month. The deceased was aged 35 years at the time of the accident and has left behind his widow, three minor daughters and one minor son. In terms of the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma** (Supra), the appropriate multiplier at the age of 35 years is 16, 50% has to be added towards the future prospects and the deduction towards the personal expenses of the deceased has to be reduced from 1/3rd to 1/4th. Following the aforesaid judgment, the multiplier is reduced from 17 to 16, 50% is added towards the future prospects of the deceased and the personal expenses of the deceased are reduced from 1/3rd to 1/4th.

7. Taking the income of the deceased as Rs.2,948/- per month, adding 50% towards the future prospects, adding Rs.2,000/- towards agricultural income, deducting 1/4th towards the personal expenses and applying the multiplier of 16, the loss of dependency is computed to be Rs.9,24,768/- [(Rs.2,948 + 50% of Rs.2,948 + Rs.2,000) x 3/4 x 12 x 16].

8. The Claims Tribunal has not awarded any compensation towards loss of estate. Rs.10,000/- is awarded towards loss

of estate. The appellants are entitled to total compensation of Rs.9,65,200/- (Rs.9,24,768 + Rs.30,432 + Rs.10,000).

9. The appeal is allowed and the award amount is enhanced from Rs.6,00,000/- to Rs.9,65,200/- along with interest @ 7.5% per annum from the date of filing of the petition till the date of notice of deposit under Order XXI Rule I of the Code of Civil Procedure.

10. The enhanced award amount along with interest be deposited by respondent No.3 with UCO Bank A/c Indro, 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.

11. Upon the aforesaid deposit being made, the UCO Bank is directed to release 10% of the same to appellant No.1 by transferring the same to her Saving Bank Account with UCO Bank, Delhi High Court Branch.

12. The remaining amount be kept in fixed deposit in the following manner:-

(i) Fixed deposit in respect of 5% of the award amount in the name of appellant No.1 for a period of one year.

(ii) Fixed deposit in respect of 5% of the award amount in the name of appellant No.1 for a period of two years.

(iii) Fixed deposit in respect of 5% of the award amount in the name of appellant No.1 for a period

of three years.

(iv) Fixed deposit in respect of 5% of the award amount in the name of appellant No.1 for a period of four years.

(v) Fixed deposit in respect of 5% of the award amount in the name of appellant No.1 for a period of five years.

(vi) Fixed deposit in respect of 5% of the award amount in the name of appellant No.1 for a period of six years.

(vii) Fixed deposit in respect of 5% of the award amount in the name of appellant No.1 for a period of seven years.

(viii) Fixed deposit in respect of 5% of the award amount in the name of appellant No.1 for a period of eight years.

(ix) Fixed deposit in respect of 5% of the award amount in the name of appellant No.1 for a period of nine years.

(x) Fixed deposit in respect of 5% of the award amount in the name of appellant No.1 for a period of ten years.

(xi) Fixed deposit in respect of 10% of the award amount in the name of appellant No.2 for a period of three years.

(xii) Fixed deposit in respect of 10% of the award

amount in the name of appellant No.3 for a period of four years.

(xiii) Fixed deposit in respect of 10% of the award amount in the name of appellant No.4 for a period of five years.

(xiv) Fixed deposit in respect of 10% of the award amount in the name of appellant No.5 for a period of eight years.

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

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

15. No cheque book be issued to appellant No.1 without the permission of this Court.

16. The Bank shall issue Fixed Deposit Pass Book instead of the FDRs to appellant 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 FDR.

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

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

19. Appellant No.1 is present in Court and she submits that she is permanent resident of Guhana, Sonapat and she has got Saving Bank Account with State Bank of Patiala, Guhana, Sonapat and, therefore, the monthly interest be permitted to be transferred/credited in the aforesaid Saving Bank Account. The UCO Bank, Delhi High Court Branch is directed to transfer/credit the monthly interest to the Saving Bank Account of appellant No.1 with State Bank of Patiala, Guhana, Sonapat.

20. 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).

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

22. 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 17, 2010
mk

J.R. MIDHA, J