

RATAN SINGH & ANR Appellants
Through : Mr. Yogesh Swroop, Adv.

versus

ABDUL MANNAN & ORS Respondents
Through : Mr. Mohan Babu Aggarwal, 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.3,15,000/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

2. The accident dated 28th April, 2006 resulted in the death of Ombir Singh. The deceased was survived by his father aged about 70 years and a minor son aged about 13 years.

3. The deceased was aged 39 years at the time of the accident and was working as a driver. The learned Tribunal took the minimum wages of Rs.3,700/- per month, added 50% towards the increase in minimum wages due to inflation

and rise in price index, deducted 1/3rd towards the personal expenses and applied the multiplier of 13 to compute the loss of dependency at Rs.5,80,000/-. Rs.40,000/- has been awarded towards loss of love and affection and Rs.10,000/- has been awarded towards funeral expenses. The total compensation computed is Rs.6,30,000/-. 50% has been deducted towards the contributory negligence of the deceased and Rs.3,15,000/- has been awarded to the appellants.

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

- (i) The finding of contributory negligence be set aside.
- (ii) The multiplier of enhanced from 13 to 15.
- (iii) The compensation be awarded for loss of estate.

5. The deceased was sleeping under truck bearing No.HR-38L-0545 which was standing in the parking for off-loading. Eye-witness, Satpal appeared in the witness box as PW-4 and deposed that he along with deceased had driven their respective buses to the place of the accident and were exhausted. The offending truck was standing in the parking for off-loading. PW-4 and Ombir informed the driver and helper of the truck who were inside that they were lying under the truck for resting. PW-4 went away to purchase the things for painting while the deceased continued to rest under the truck. Before leaving, PW-4 woke up the deceased

and told him to rest in his own vehicle but the deceased informed PW-4 that he has already informed the driver of the truck who was aware that the deceased was resting under the truck. After sometime when PW-4 came back, he found that the deceased had been ran over by the truck. The truck driver and the conductor ran away from the spot. The learned Tribunal held the deceased and the driver of the truck to be contributory negligent to the extent of 50%. Since the driver of the truck was aware that the deceased was resting under the truck, having been informed by PW-4 as well as the deceased, the negligence of the driver is enhanced from 50% to 75%. The negligence of the deceased is reduced from 50% to 25%.

6. The deceased was aged 39 years at the time of the accident. Following the judgment of Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) Scale 129**, the appropriate multiplier at the age of 39 years is 15. The multiplier is enhanced from 13 to 15. The learned Tribunal has not awarded any compensation towards loss of estate. Rs.10,000/- is awarded for loss of estate.

7. Taking the income of the deceased to be Rs.5,550/- per month, deducting 1/3rd towards his personal expenses and applying the multiplier of 15, the loss of dependency is computed to be Rs.6,66,000/- (Rs.5,550 x 12 x 2/3 x 15). Deducting 25% towards the contributory negligence of the

deceased, the balance loss of dependency is computed to be Rs.4,99,500/- [Rs.6,66,000 – (25% of Rs.6,66,000)]. Adding Rs.40,000/- towards loss of love and affection, Rs.10,000/- towards funeral expenses and Rs.10,000/- towards loss of estate, the total compensation computed to be Rs.5,59,500/- (Rs.4,99,500 + Rs.40,000 + Rs.10,000 + Rs.10,000).

8. The appeal is allowed and the award amount is enhanced from Rs.3,15,000/- to Rs.5,59,500/- along with interest @ 7.5% per annum from the date of filing of the petition till the notice of deposit under Order 21 Rule 1 of the Code of Civil Procedure.

9. The enhanced award amount along with interest be deposited by respondent No.3 with State Bank of India A/c Ratan Singh, Tis Hazari Court Branch through Mr. H.S. Rawat, Relationship Manager, Tis Hazari Branch, Tis Hazari (Mb: 09717044322).

10. Upon the aforesaid deposit being made, the State Bank of India is directed to release 10% of the same to appellant No.1. 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 appellant No.1 for a period of six months.

(ii) Fixed deposit in respect of 10% of the award amount in the name of appellant No.1 for a period of one year.

- (iii) Fixed deposit in respect of 10% of the award amount in the name of appellant No.2 for a period of one and a half years.
- (iv) Fixed deposit in respect of 10% of the award amount in the name of appellant No.2 for a period of two years.
- (v) Fixed deposit in respect of 10% of the award amount in the name of appellant No.2 for a period of two and a half years.
- (vi) Fixed deposit in respect of 10% of the award amount in the name of appellant No.2 for a period of three years.
- (vii) Fixed deposit in respect of 10% of the award amount in the name of appellant No.2 for a period of three and a half years.
- (viii) Fixed deposit in respect of 10% of the award amount in the name of appellant No.2 for a period of four years.
- (ix) Fixed deposit in respect of 10% of the award amount in the name of appellant No.2 for a period of four and a half years.

11. The interest on the aforesaid fixed deposits shall be paid monthly by automatic credit of interest in the Savings Account of appellant No.2.

12. Withdrawal from the aforesaid account shall be permitted after due verification and the Bank shall issue photo Identity Card to the appellants to facilitate identity.

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

14. The Bank shall issue Fixed Deposit Pass Book instead of the FDRs to the appellants 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 the appellants, the Bank shall transfer the Savings Account to any other branch according to the convenience of the appellants.

18. The appellants shall furnish all the relevant documents for opening of the Saving Bank Account and Fixed Deposit Account to Mr. H.S. Rawat, Relationship Manager, Tis Hazari Branch, Tis Hazari (Mb: 09717044322).

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

20. Copy of this order be also sent to Mr. H.S. Rawat, Relationship Manager, Tis Hazari Branch, Tis Hazari (Mb: 09717044322) under the signature of Court Master.

MARCH 03, 2010
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J.R. MIDHA, J