

Date of Decision : 19th March, 2010

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ORIENTAL INSURANCE CO. LTD. Appellant
Through : Mr. R.N. Sharma, Adv.

versus

BABY RINKI & ORS. Respondents
Through : Mr. Pratyush K. Yadav, 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 has challenged the award of the learned Tribunal.
2. The accident dated 29th July, 1998 resulted in the death of Ashok. The deceased was survived by his widow, one minor daughter and two minor sons who filed the claim petition before the learned Tribunal.
3. The deceased was aged 32 years at the time of the accident and was working as a Senior Polisher in Electroplating Factory earning Rs.3,500/- per month. The

Claims Tribunal added 50% towards the future prospects, deducted 1/4th towards the personal expenses and directed the appellant to pay a sum of Rs.2,000/- per month to widow and Rs.6,600/- per month to each of the three children. The Claims Tribunal further awarded Rs.60,000/- towards loss of love and affection and Rs.20,000/- towards the funeral expenses.

4. The learned counsel for the appellant submits that the lump-sum compensation be paid according to the principles laid down by the Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) Scale 129**. The learned counsel for claimants/respondents No.1 to 4 also agree to the computation of compensation according to the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma** (Supra).

5. The deceased was earning Rs.3,500/- per month at the time of the accident. There was no proof of permanent employment and, therefore, the future prospects cannot be taken into consideration. The deceased was aged 32 years at the time of the accident and was survived by four legal representatives. Following the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma** (Supra), 1/4th is deducted towards the personal expenses of the deceased and the multiplier of 16 is applied to the present case.

6. Taking the income of the deceased as Rs.3,500/- per month, deducting $\frac{1}{4}$ th towards the personal expenses and applying the multiplier of 16, the loss of dependency is computed to be Rs.5,04,000/- ($\text{Rs.3,500} \times \frac{3}{4} \times 16 \times 12$). Rs.10,000/- is awarded towards loss of consortium, Rs.10,000/- is awarded towards loss of estate, Rs.16,000/- is awarded towards loss of love and affection and Rs.10,000/- is awarded towards funeral expenses. The total compensation is computed to be Rs.5,50,000/- ($\text{Rs.5,04,000} + \text{Rs.10,000} + \text{Rs.10,000} + \text{Rs.16,000} + \text{Rs.10,000}$).

7. The appeal is allowed, the impugned award is modified and Rs.5,50,000/- along with interest @7.5% per annum is awarded to the claimants.

8. The learned counsel for the appellant submits that the interim award amount of Rs.50,000/- has been paid to the claimants and the said amount be adjusted from the award amount awarded to claimants/respondents No.1 to 4 by this Court. The learned counsel for the appellant further submits that four cheques bearing Nos.190073-190076 for Rs.2,82,000/-, Rs.83,916/-, Rs.83,916/- and Rs.83,916/- were deposited with the Claims Tribunal. The said cheques are dated 7th July, 2009 and have since expired. Vide order dated 1st February, 2010, the Claims Tribunal was directed to send the said cheques and the same have been received by this Court. The said cheques shall be returned to the claimants after satisfaction of this award.

9. The appellant is directed to deposit the entire award amount along with interest from the date of filing of the petition till the date of notice under Order XXI Rule 1 of the Code of Civil Procedure, after adjusting the interim award amount but without adjusting the statutory amount with UCO Bank A/c Kamlesh, 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.

10. After payment of the entire award amount by the appellant to claimants/respondents No.1 to 4, the appellant shall have the right to recover the same from the owner/insured in terms of the award of the Claims Tribunal.

11. Upon the aforesaid deposit being made, the UCO Bank is directed to keep a sum of Rs.8,00,000/- in fixed deposit in the following manner:-

- (i) Fixed deposit for Rs.50,000/- in the name of respondent No.4 for a period of one year.
- (ii) Fixed deposit for Rs.50,000/- in the name of respondent No.4 for a period of two years.
- (iii) Fixed deposit for Rs.50,000/- in the name of respondent No.4 for a period of three years.
- (iv) Fixed deposit for Rs.50,000/- in the name of respondent No.4 for a period of four years.
- (v) Fixed deposit for Rs.50,000/- in the name of respondent No.4 for a period of five years.

- (vi) Fixed deposit for Rs.50,000/- in the name of respondent No.4 for a period of six years.
- (vii) Fixed deposit for Rs.50,000/- in the name of respondent No.4 for a period of seven years.
- (viii) Fixed deposit for Rs.50,000/- in the name of respondent No.4 for a period of eight years.
- (ix) Fixed deposit for Rs.50,000/- in the name of respondent No.4 for a period of nine years.
- (x) Fixed deposit for Rs.50,000/- in the name of respondent No.4 for a period of ten years.
- (xi) Fixed deposit for Rs.1,00,000/- in the name of respondent No.1 for a period of two years.
- (xii) Fixed deposit for Rs.1,00,000/- in the name of respondent No.2 for a period of three years.
- (xiii) Fixed deposit for Rs.1,00,000/- in the name of respondent No.3 for a period of four years.

12. The remaining amount be released to respondent No.4 by transferring the same to her Saving Bank Account.

13. The interest on the aforesaid fixed deposits shall be paid monthly by automatic credit of interest in the Savings Account of respondent No.4.

14. Withdrawal from the aforesaid account shall be permitted to respondent No.4 after due verification and the Bank shall issue photo Identity Card to respondent No.4 to facilitate identity.

15. No cheque book be issued to respondent No.4 without the permission of this Court.

16. The Bank shall issue Fixed Deposit Pass Book instead of the FDRs to respondent No.4 and the maturity amount of the FDRs be automatically credited to the Saving Bank Account of the beneficiaries at the end of the FDRs.

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. On the request of respondent No.4, the Bank shall transfer the Savings Account to any other branch according to her convenience.

20. The claimants/respondents No.1 to 4 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.

21. The proof of deposit of the award amount be placed on record on the next date of hearing whereupon the cheques send by the Claims Tribunal shall be returned back to the appellant.

22. After satisfaction of this award, the statutory amount of Rs.25,000/- be returned back to the Claims Tribunal.

23. List for reporting compliance on 28th April, 2010.

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

25. 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 19, 2010/mk

J.R. MIDHA, J