

**\*IN THE HIGH COURT OF DELHI AT NEW DELHI**

**+ MAC.APP.No.463/2008**

Date of Decision : 23<sup>rd</sup> July, 2010

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GANGA SAGAR GUPTA & ORS. .... Appellants  
Through : Mr. Navneet Goyal and  
Mr. Varun Kumar, Advs.

versus

RAGHU NATH GUPTA & ORS. .... Respondents  
Through : Mr. Kanwal Chaudhary, Adv.  
for R-3.

**CORAM :-  
HON'BLE MR. JUSTICE J.R. MIDHA**

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|----|-----------------------------------------------------------------------|------------|
| 1. | Whether Reporters of Local papers may be allowed to see the Judgment? | <b>YES</b> |
| 2. | To be referred to the Reporter or not?                                | <b>YES</b> |
| 3. | Whether the judgment should be reported in the Digest?                | <b>YES</b> |

**JUDGMENT (Oral)**

1. The appellants have challenged the award of the learned Tribunal whereby compensation of Rs.63,500/- has been awarded to the appellants. The appellants seek enhancement of the award amount.
2. The accident dated 30<sup>th</sup> September, 1988 resulted in the death of Narmada Devi Gupta. The deceased was survived by her husband, two sons and two daughters who filed the claim petition before the learned Tribunal.
3. The deceased was aged about 57 years at the time of the accident. The Claims Tribunal took the income of the

deceased as Rs.562/- per month, deducted 1/3<sup>rd</sup> towards her personal expenses and applied the multiplier of 8 to compute the loss of dependency at Rs.36,000/-. Rs.2,500/- has been awarded towards funeral expenses, Rs.10,000/- towards consortium and Rs.15,000/- towards loss of love and affection. The total compensation awarded is Rs.63,500/-.

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

(i) The deceased be treated as housewife for computation of compensation in terms of the judgment of the Hon'ble Supreme Court in the case of **Lata Wadwa Vs State of Bihar, 2001 ACJ 1725.**

(ii) The deduction of 1/3<sup>rd</sup> towards the personal expenses be set aside.

(iii) The multiplier be enhanced from 8 to 9.

(iv) The compensation be awarded for loss of estate.

5. The occupation and income of the deceased has not been proved by sufficient evidence and, therefore, the Claims Tribunal erred in taking the minimum wages as the income of the deceased. The deceased is treated as a housewife. The income and value of the services of the deceased are taken to be Rs.2,500/- per month. No deduction is permissible from the value of the services of the deceased. Reference in this regard be made to para 11 of

the judgment in **Lata Wadhwa's** case which is reproduced hereunder:-

“So far as the deceased housewives are concerned, in the absence of any data and as the housewives were not earning any income, attempt has been made to determine the compensation, on the basis of services rendered by them to the house. On the basis of the age group of the housewives, appropriate multiplier has been applied, but the estimation of the value of services rendered to the house by the housewives, which has been arrived at Rs.12,000/- per annum in cases of some and Rs.10,000/- for others, appears to us to be grossly low. It is true that the claimants, who ought to have given data for determination of compensation, did not assist in any manner by providing the data for estimating the value of services rendered by such housewives. But even in the absence of such data and taking into consideration, the multifarious services rendered by the housewives for managing the entire family, even on a modest estimation, should be Rs.3,000/- per month and Rs.36,000/- per annum. This would apply to all those housewives between the age group of 34 to 59 and as such who were active in life. The compensation awarded, therefore should be re-calculated, taking the value of services rendered per annum to be Rs.36,000/- and therefore applying the multiplier, as has been applied.”

6. The deceased was aged about 57 years at the time of the accident and the appropriate multiplier according to the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) Scale 129** at the age of 57 years is 9. The multiplier is, therefore, enhanced from 8 to 9. Taking the value of the services of

the deceased as Rs.2,500/- per month and applying the multiplier of 9, the loss of dependency of the appellants is computed to be Rs.2,70,000/- (Rs.2,500 x 12 x 9). Adding Rs.2,500/- towards funeral expenses, Rs.10,000/- towards loss of consortium, Rs.15,000/- towards loss of love and affection and Rs.10,000/- towards loss of estate, the total compensation is computed to be Rs.3,07,500/ (Rs.2,70,000 + Rs.2,500 + Rs.10,000 + Rs.15,000 + Rs.10,000).

7. The appeal is allowed and the award amount is enhanced from Rs.63,500/- to Rs.3,07,500/-. The Claims Tribunal has awarded interest @ 9% per annum on the original award amount of Rs.63,500/- which is not disturbed. However, on the enhanced award amount, the rate of interest shall be @ 7.5% per annum from the date of filing of the petition till realization.

8. The enhanced award amount along with interest be deposited by respondent No.3 with UCO Bank A/c Ganga Sagar Gupta, Delhi High Court Branch within 30 days.

9. Upon the aforesaid amount being deposited, UCO Bank is directed to release 10% of the same to appellant No.1 by transferring the same to his Saving Bank Account. The remaining amount be kept in fixed deposit in the names of the appellants 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.2 for a period of six months.
- (iii) Fixed deposit in respect of 10% of the award amount in the name of appellant No.3 for a period of six months.
- (iv) Fixed deposit in respect of 10% of the award amount in the name of appellant No.4 for a period of six months.
- (v) Fixed deposit in respect of 10% of the award amount in the name of appellant No.5 for a period of six months.
- (vi) Fixed deposit in respect of 10% of the award amount in the name of appellant No.1 for a period of one year.
- (vii) Fixed deposit in respect of 10% of the award amount in the name of appellant No.1 for a period of one and a half years.
- (viii) Fixed deposit in respect of 10% of the award amount in the name of appellant No.1 for a period of two years.
- (ix) Fixed deposit in respect of 10% of the award amount in the name of appellant No.1 for a period of two and a half years.

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

11. 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.

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

13. 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 beneficiaries at the end of the FDRs.

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

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

16. On the request of appellant No.1, the Bank shall transfer the Savings Account to any other branch according to the convenience of appellant No.1

17. 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.

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

19. 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.

**JULY 23, 2010**

**J. R. MIDHA, J**