

IN THE HIGH COURT OF DELHI AT NEW DELHI*+ MAC.APP.No.537/2007**Date of Decision: 18th March, 2010

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SURENDRI & ORS Appellants
Through Mr. O.P. Mannie, Adv.

versus

SATPAL & ANR Respondents
Through Mr. K.L. Nandwani, Adv. for
R-2.

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.1,77,000/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

2. The accident dated 11th December, 2005 resulted in the death of Jagat Singh. The deceased was survived by his widow, six minor daughters, one minor son and parents who filed the claim petition before the learned Tribunal.

3. The deceased was aged about 32 years at the time of the accident and was working in the dairy farm. In the absence of any documentary proof of the income of the deceased, the learned Tribunal took the notional income of the deceased as Rs.15,000/- per annum, deducted 1/3rd towards his personal expenses and applied the multiplier of 17 to compute the loss of dependency at Rs.1,70,000/-. The learned Tribunal has awarded Rs.2,000/- towards funeral expenses and Rs.5,000/- towards loss of consortium. The learned Tribunal has awarded total compensation of Rs.1,77,000/- to the appellants.

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

- (i) The income of the deceased be taken to be according to the minimum wages of Rs.3,166/- per month.
- (ii) The personal expenses of the deceased be not deducted in view of the large family.
- (iii) The compensation be awarded for loss of love and affection and loss of estate.

5. The deceased was working in a dairy farm. It is well settled that in the absence of any documentary proof, the Claims Tribunal should have taken the minimum wages into consideration. The Claims Tribunal has erred in taking the notional income of Rs.15,000/- per

month. The minimum wages of Rs.3,166/- are taken for computation of compensation. The deceased has left behind ten legal representatives. Considering the large family of the deceased, no deduction in respect of his personal expenses for computation of compensation is done. The deceased was aged 32 years at the time of accident and the Claims Tribunal has applied the multiplier of 17. According to the judgment of the 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 32 years is 16 and, therefore, the multiplier is reduced from 17 to 16.

6. The Claims Tribunal has not awarded any compensation for loss of love and affection and loss of estate. Rs.10,000/- is awarded towards loss of love and affection and Rs.10,000/- towards loss of estate.

7. Taking the income of the deceased to be Rs.3,166/- per month, applying the multiplier of 16, adding Rs.5,000/- towards the loss of consortium, Rs.2,000/- towards funeral expenses, Rs.10,000/- loss of love and affection and Rs.10,000/- towards loss of estate, the total compensation computed to be Rs.6,34,872/- $[(3166 \times 12 \times 16) + 5,000/- + 2,000/- + 10,000 + 10,000/-]$.

8. The appeal is allowed and the award amount is enhanced from Rs.1,77,000/- to Rs.6,34,872/- along with interest @7.5% per annum from the date of filing of the

petition till notice under Order 21 Rule 1 of the Code of Civil Procedure. The enhanced award amount along with interest be deposited by the respondent No.2 with UCO Bank A/c Surendri, Delhi High Court Branch, within 30 days.

9. Upon the aforesaid amount being deposited the UCO Bank is directed to release 10% of the same to appellant No.1 by transferring the same to her Savings Bank Account. The remaining amount be kept in the fixed deposits in the following manner:-

- (i) Fixed deposit in respect of 10% of the award amount in the name of appellant No.1 for the period of six months.
- (ii) Fixed deposit in respect of 5% of the award amount in the name of appellant No.9 for the period of one year.
- (iii) Fixed deposit in respect of 5% of the award amount in the name of appellant No.10 for the period of one year.
- (iv) Fixed deposit in respect of 10% of the award amount in the name of appellant No.2 for the period of one and a half years.
- (v) Fixed deposit in respect of 10% of the award amount in the name of appellant No.3 for the period of two years.
- (vi) Fixed deposit in respect of 10% of the award

amount in the name of appellant No.4 till he attains the age of 18 years.

(vii) Fixed deposit in respect of 10% of the award amount in the name of appellant No.5 till she attains the age of 18 years.

(viii) Fixed deposit in respect of 10% of the award amount in the name of appellant No.6 till she attains the age of 18 years.

(ix) Fixed deposit in respect of 10% of the award amount in the name of appellant No.7 till she attains the age of 18 years.

(x) Fixed deposit in respect of 10% of the award amount in the name of appellant No.8 till she attains the age of 18 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 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.

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 appellant Nos.1 to 10 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.

J.R. MIDHA, J

MARCH 18, 2010/HL