

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

**+ MAC.APP.No.42/2008**

Date of Decision: 20<sup>th</sup> April, 2010

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NATIONAL INSURANCE CO. LTD ..... Appellant  
Through : Mr. Pankaj Seth and  
Mr. M.K. Tiwari, Advs.

versus

SANJU BALA & ORS. .... Respondents  
Through : Mr. Arun Srivastava, Adv.  
for R-1 to 4 along with R-1 to 4.

**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? | <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 appellant has challenged the award of the learned Tribunal whereby compensation of Rs.22,76,000/- has been awarded to claimants/respondents No.1 to 4.

2. The accident dated 9<sup>th</sup> April, 2006 resulted in the death of Tilak Raj Sharma. The deceased was survived by his widow, two minor sons and mother who filed the claim petition before the learned Tribunal.

3. The deceased was aged 38 years at the time of the accident and was working as a driver with Himachal Roadways drawing a salary of Rs.9,329/- per month. The learned Tribunal took the future prospects into consideration

by taking the average of Rs.9,329/- and Rs.28,000/-, 1/3<sup>rd</sup> was deducted towards his personal expenses and the multiplier of 15 was applied to compute the loss of dependency at Rs.22,41,000/-. Rs.25,000/- has been awarded for loss of love and affection, loss of consortium and Rs.10,000/- has been awarded for funeral expenses. The total compensation awarded is Rs.22,76,000/-

4. The learned counsel for the appellant has urged at the time of hearing of this appeal that the future prospects be taken into consideration by adding 50% of the salary of the deceased 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.**

5. The learned counsel for claimants/respondents No.1 to 4, in reply, submit that personal expenses of the deceased be reduced from 1/3<sup>rd</sup> to 1/4<sup>th</sup> and the compensation be awarded for loss of estate in terms of the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma** (Supra). Following the aforesaid judgment, the finding of the Claims Tribunal with respect to the future prospects of the deceased is set aside and the 50% of the salary is added towards the future prospects and the personal expenses of the deceased are reduced from 1/3<sup>rd</sup> to 1/4<sup>th</sup> and Rs.10,000/- is awarded towards loss of estate.

6. Taking the income of the deceased as Rs.9,329/- per month, adding 50% towards the future prospects, deducting

1/4<sup>th</sup> towards the personal expenses, applying the multiplier of 15, adding Rs.25,000/- towards loss of love and affection and loss of consortium, Rs.10,000/- towards funeral expenses and Rs.10,000/- towards loss of estate, the total compensation computed to be Rs.19,34,122/- [(Rs.9,329 + 50% of Rs.9,329) x 3/4 x 12 x 15 + Rs.25,000 + Rs.10,000 + Rs.10,000].

7. The appeal is allowed and the award amount is reduced from Rs.22,76,000/- to Rs.19,34,122/- along with interest @ 7.5% per annum from the date of filing of the petition till realization.

8. The appellant deposited 75% of the award amount with the Registrar General of this Court in terms of the order dated 31<sup>st</sup> January, 2008. The said amount was remitted by the Registrar General of this Court along with the statutory amount of Rs.25,000/- to the Claims Tribunal in terms of the order dated 6<sup>th</sup> April, 2009. The 25% of the award amount along with interest thereon was deposited by the appellant with the Claims Tribunal in terms of the order dated 6<sup>th</sup> April, 2009. As such, the entire award amount awarded by the Claims Tribunal has been deposited/remitted to the Claims Tribunal and, therefore, in view of this appeal being allowed, the appellant is entitled to refund of Rs.3,41,878/- (Rs.22,76,000 – Rs.19,34,122) along with interest thereon as deposited by the appellant.

9. The Claims Tribunal has released part of the award amount to the claimants in terms of its award amount. The remaining amount is lying in fixed deposit and the original fixed deposit receipts are retained by the Claims Tribunal in terms of the order dated 6<sup>th</sup> April, 2009.

10. The Claims Tribunal is directed to refund a sum of Rs.3,41,878/- along with such interest thereon as paid by the appellant. The appellant would be entitled only to such amount of interest as per the interest component in the amount deposited by the appellant.

11. This refund should be made by discharging all the fixed deposit receipts held by the Claims Tribunal by means of a cheque to be prepared on the instructions of the Claims Tribunal by the State Bank of India, Tis Hazari Court Branch.

12. After refund of the amount to the appellant, the Claims Tribunal is directed to release 10% of the amount to respondent No.1 by transferring the said amount to her Saving Bank Account. The balance 90% amount be kept in fresh fixed deposits in the following manner:-

- (i) Fixed deposit in respect of 10% of the amount in the name of respondent No.1 for a period of one year.

- (ii) Fixed deposit in respect of 10% of the amount in the name of respondent No.4 for a period of two years.
- (iii) Fixed deposit in respect of 10% of the amount in the name of respondent No.1 for a period of three years.
- (iv) Fixed deposit in respect of 10% of the amount in the name of respondent No.4 for a period of four years.
- (v) Fixed deposit in respect of 10% of the amount in the name of respondent No.1 for a period of five years.
- (vi) Fixed deposit in respect of 10% of the amount in the name of respondent No.2 for a period of six years.
- (vii) Fixed deposit in respect of 10% of the amount in the name of respondent No.3 for a period of seven years.
- (viii) Fixed deposit in respect of 10% of the amount in the name of respondent No.2 for a period of eight years.
- (ix) Fixed deposit in respect of 10% of the amount in the name of respondent No.3 for a period of nine years.

13. The interest on the aforesaid fixed deposits shall be paid monthly by automatic credit of interest in the Savings

Account of respondent No.1 with State Bank of India, Hamir Pur Branch.

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

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

16. The Bank shall issue Fixed Deposit Pass Book instead of the FDRs to the respondents and the maturity amount of the FDRs be automatically credited to the Saving Bank Account of the beneficiary 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.1, the Bank shall transfer the Savings Account to any other branch according to the convenience of respondent No.1.

20. The respondent Nos.1 to 4 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).

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

22. 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.

**APRIL 20, 2010**  
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**J.R. MIDHA, J**