

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

+ MAC.APP.No.572/2009

Date of Decision: 7th April, 2010

%

MULEMA DEVI @ SULEMA DEVI & ORS Appellants
Through : Mr. K.K. Dubey, Adv.

versus

MOHAMMAD AARIF & ORS Respondents
Through : Ms. Neerja Sachdeva, Adv.
for R-2.

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

- | | | |
|----|---|------------|
| 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 the compensation of Rs.5,28,160/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

2. The accident dated 27/28th October, 2006 resulted in the death of Mahavir Prasad. The deceased was survived by his widow, mother and five minor children who filed the claim petition before the Claims Tribunal.

3. The deceased was aged 41 years at the time of the accident and was working as a driver with M/s Capital Tempo Transport Company earning Rs.8,000/- per month. However, in the absence of sufficient proof of income, the Claims

Tribunal took the minimum wages of Rs.3,716/- per month into consideration, deducted 1/4th towards personal expenses and applied the multiplier of 15 to compute the loss of dependency at Rs.5,01,660/-. Rs.10,000/- has been awarded towards loss of consortium, Rs.4,000/- towards funeral expenses and Rs.12,500/- towards loss of estate. The total compensation awarded is Rs.5,28,160/-.

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

- (i) The increase in minimum wages due to inflation and rise in price index be taken into consideration.
- (ii) The personal expenses of the deceased be reduced from 1/4th to 1/5th.
- (iii) The compensation for loss of estate, loss of love and affection and funeral expenses be enhanced.
- (iv) The rate of interest be enhanced from 7% per annum to 7.5% per annum.

5. It is well settled by catena of judgments of this Court in the cases of **Kanwar Devi vs. Bansal Roadways, 2008 ACJ 2182**, **National Insurance Company Limited vs. Renu Devi III (2008) ACC 134** and **UPSRTC vs. Munni Devi, MAC.APP.No.310/2007** decided on 28.07.2008 that the Court should take judicial notice of increase in minimum wages to meet the increase in price index and inflation rate.

The Court has taken the view that the minimum wages get

doubled over the period of 10 years and increase in minimum wages is not akin to future prospects. Following the aforesaid judgments, the income of the deceased for computation of compensation is taken to be Rs.5,574/- per month $[(Rs.3,716 + Rs.7,432)/2]$.

6. The learned counsel for respondent No.2 submits that the deceased was aged 41 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** is 14 whereas the Claims Tribunal has applied the multiplier of 15. The learned counsel for respondent No.2 further submits that the deceased has left behind seven legal representatives and the appropriate deduction towards personal expenses according to the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma** (supra) is $1/5^{th}$ whereas the Claims Tribunal has taken the personal expenses to be $1/4^{th}$. Following the aforesaid judgment, the multiplier is reduced from 15 to 14 and the personal expenses of the deceased are reduced from $1/4^{th}$ to $1/5^{th}$.

7. Taking the income of the deceased as Rs.5,574/- per month, deducting $1/5^{th}$ towards personal expenses and applying the multiplier of 14, the loss of dependency is computed to be Rs.7,49,145.60 $(Rs.5,574 \times 12 \times 4/5 \times 14)$.

8. The Claims Tribunal has awarded Rs.4,000/- towards funeral expenses which is enhanced to Rs.10,000/-. The

compensation for loss of estate and loss of love and affection is enhanced from Rs.12,500/- to Rs.20,000/-. The appellants are entitled to total compensation of Rs.7,89,145.60 (Rs.7,49,145.60 + Rs.10,000 + Rs.20,000 + Rs.10,000).

9. The Claims Tribunal has awarded interest @7% per annum. Following the judgment of the Hon'ble Supreme Court in the case of **Dharampal vs. U.P. State Road Transport Corporation, III 2008 ACC (1) SC**, the rate of interest is enhanced from 7% per annum to 7.5% per annum.

10. The appeal is allowed with costs. The award amount is enhanced from Rs.5,28,160/- to Rs.7,49,145.60 along with interest @7.5% per annum from the date of filing of the claim petition up to the date of notice of deposit under Order XXI Rule 1 of the Code of Civil Procedure. The cost of the appeal is assessed at Rs.25,000/- based on the memo of fees filed by the counsel for the appellant at the time of hearing of this appeal.

11. The enhanced award amount along with interest be deposited by respondent No.2 with UCO Bank A/c Mulema Devi @ Sulema Devi, Patiala House Branch through Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400) within 40 days. The cost of Rs.25,000/- of this appeal be deposited by respondent No.2 by means of separate cheque in the name of K.K. Dubey, Advocate along with the deposit of the enhanced award amount. In view of the judgment of this

Court in **Sat Prakash vs. Jagdish, FAO.No.365/1999** decided on **26th March, 2010**, the legal fee of the counsel for respondent No.2 be also deposited with UCO Bank by means of a separate cheque in the name of Ms. Neerja Sachdeva, Advocate.

12. Upon the enhanced award amount being deposited, UCO Bank is directed to release 10% of the amount 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.2 for a period of one year.
- (ii) Fixed deposit in respect of 10% of the award amount in the name of appellant No.1 for a period of two years.
- (iii) Fixed deposit in respect of 10% of the award amount in the name of appellant No.1 for a period of three years.
- (iv) Fixed deposit in respect of 10% of the award amount in the name of appellant No.1 for a period of four years.
- (v) Fixed deposit in respect of 10% of the award amount in the name of appellant No.1 for a period of five years.
- (vi) Fixed deposit in respect of 10% of the award

amount in the name of appellant No.3 till she attains the age of 18 years.

(vii) Fixed deposit in respect of 10% of the award amount in the name of appellant No.4 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.5 till he attains the age of 18 years.

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

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

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

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

16. The Bank shall issue Fixed Deposit Pass Book instead of the FDRs to the appellant and the maturity amount of the FDRs be automatically credited to the Saving Bank Account of the beneficiary at the end of the FDR.

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 the appellants, the Bank shall transfer the Savings Account to any other branch of UCO Bank according to the convenience of the appellants.

20. 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 (Mobile No. 09310356400).

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

22. 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

APRIL 07, 2010

aj