

REPORTED

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

+ MAC.APP. 570/2009

RANVEER SINGH & ANR. Appellants
Through: Mr. R.K. Bachchan, Advocate.

versus

POONAM REVRI & ORS. Respondents
Through: Ms. Neerja Sachdeva,
Advocate, for the respondent
no.2.

% Date of Reserve : November 22, 2010
Date of Decision : November 29, 2010

CORAM:
HON'BLE MS. JUSTICE REVA KHETRAPAL

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether judgment should be reported in Digest?

J U D G M E N T
29.11.2010

: REVA KHETRAPAL, J.

This appeal has been preferred by the appellants for enhancement of the compensation awarded by the Motor Accident Claims Tribunal by its award dated 9th September, 2009.

2. The appellants are the father and mother of the deceased Ombir Singh, who died in a road accident on 14th February, 2006 involving a Canter truck bearing no. HR 38 K 4731, driven by the respondent no.3, owned by the respondent no.1 and insured with the respondent no.2.

3. The deceased was the only son of his parents and unfortunately died two days before he was to be wedded. He was working as an authorized agent of the Life Insurance Corporation and according to the claimants was earning a sum of ₹ 20,000/- per month. The learned Motor Accident Claims Tribunal, however, came to the conclusion that neither the employment nor the income of the deceased had been proved. The Tribunal noted that an Assistant from the LIC who had been examined as PW3, produced the commissioned record pertaining to a Code No. 00899121 (Ex.PW3/A). The said

record did not reveal the name of the agent, and thus could not be said to be connected with the deceased in any manner.

4. In any event, the Tribunal concluded, the documents Ex.PW3/A collectively, even if assumed to be pertaining to the deceased, did not support the case of the appellants as the total amount of income under the head of gross commission for a period of three years i.e. from 13th May, 2003 till 14th February, 2006 was shown as ₹ 33,709.88p. The total tax paid as per Ex.PW3/A was ₹ 3421/- only, for a period of 3 years and the net commission earned by the concerned person was shown to be ₹ 30,285.88p for the aforesaid period.

5. The learned Tribunal, therefore, proceeded to assess the income of the deceased on the basis of the Minimum Wages Schedule as applicable to a non-matriculate as on the date of the accident, being in the sum of ₹ 3464/-, and thus assessed the loss of dependency of the appellants to be in the sum of ₹ 4,05,288/-.

6. Although the number of grounds were raised in the appeal, at the time of arguments Mr. R.K. Bachchan, the learned counsel for

the appellant, in the main contended that the learned Tribunal had erred in completely disregarding the fact that the deceased was a matriculate and hence the application of Minimum Wages Schedule for a non-matriculate was wholly unjustified. More so, as the appellants had placed on record the admission card of the deceased, Ex.PW1/B, which conclusively showed that the deceased had passed his matriculation examination, being an admit card for the Senior Secondary Examinations. The aforesaid fact could not be refuted by the learned counsel for the Insurance Company.

7. It thus stands conclusively established that the deceased was a matriculate. The Minimum Wages Schedule reflects that for a matriculate the minimum wages as on the date of the accident, i.e., 14th February, 2006 were ₹ 3719/-. In consonance with the judgment of the Supreme Court rendered in *Sarla Verma and Ors. vs. Delhi Transport Corporation and Anr. (2009) 6 SCC 121*, the deceased being much below 40 years of age, an addition of 50% towards his future prospects must be made to his total income. Thus calculated, the income of the deceased works out to ₹ 3719/- + ₹ 1860/- =

₹ 5579/-, which may be rounded off to ₹ 5580/-. Deducting one-half (1/2) thereof towards the personal expenses of the deceased, the income of the deceased for the purpose of computing the loss of dependency of the appellants works out to ₹ 5579/- divided by 2 = ₹ 2789/- per month, which may also be rounded off to ₹ 2790/- per month. The annual income of the deceased thus works out to ₹ 2790/- x 12 = ₹ 33,480/-. Having regard to the age of the mother of the deceased, which at the time of the death was 47 years, the multiplier of 13 would be applicable. Thus calculated, the total loss of dependency of the appellants works out to ₹ 33480/- x 13 = ₹ 4,35,240/-.

8. As regards the non-pecuniary damages, the learned Tribunal has awarded a sum of ₹ 5000/- under the head of loss of estate, ₹ 5000/- towards funeral expenses and ₹ 50,000/- towards loss of love and affection. There does not appear to be any cogent reason to interfere with the judgment of the learned Tribunal in this regard. Accordingly, the appellants are held entitled to a total compensation of ₹ 4,35,240/- + ₹ 60,000/- = ₹ 4,95,240/-, which is rounded off to

₹ 4,95,000/- (including the sum of ₹ 50,000/- paid as interim compensation). Thus, the total enhanced compensation payable to the appellants would be ₹ 29,712/- (i.e. ₹ 4,95,000 – ₹ 4,65,288/-).

9. The award is accordingly modified to the above extent. The interest on the enhanced amount of ₹ 29,712/- which is rounded off to ₹ 30,000/-, shall be paid by the respondent no.2 at the same rate i.e. 7.5 % per annum from the date of the filing of the petition till the realization.

10. The enhanced compensation awarded by this Court shall enure exclusively to the benefit of the appellant no.2, Smt. Phul Shri, the mother of the deceased.

11. The appeal stands disposed of in the above terms.

REVA KHETRAPAL
(JUDGE)

November 29, 2010
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