

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

+ MAC.APP.No.53/2009

Date of Decision: 18th May, 2010

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REKHA SHARMA & ANR. Appellants
Through : Mr. O.P. Mainne, Adv.

versus

IMRAN KHAN & ORS. Respondents
Through : Mr. J.P.N. Shahi, Adv. for
R-3.

**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 the compensation of Rs.3,95,000/- has been awarded to them. The appellants seek enhancement of the award amount.

2. The accident dated 11th September, 2005 resulted in the death of Yogesh Sharma. The deceased was survived by his parents who filed the claim petition before the Claims Tribunal.

3. The deceased was aged 20 years at the time of the accident. The appellants were aged 44 years and 53 years at the time of the accident. The deceased was a matriculate

and the Claims Tribunal took the minimum wages of Rs.3,719/- per month, deducted $\frac{1}{3}$ rd towards personal expenses and applied the multiplier of 11 to compute the loss of dependency at Rs.3,55,000/-. Rs.30,000/- has been awarded towards loss of love and affection, Rs.5,000/- towards funeral expenses and Rs.5,000/- towards loss of estate. The total compensation awarded is Rs.3,95,000/-.

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

- (i) Increase in minimum wages due to inflation and rise in price index be taken into consideration.
- (ii) The multiplier be enhanced from 11 to 14.
- (iii) The rate of interest be enhanced from 6% per annum to 7.5% per annum.

5. The learned counsel for respondents No.1 to 3 submits that the personal expenses of the deceased are liable to be reduced from $\frac{1}{3}$ rd to $\frac{1}{2}$.

6. According to the judgment of Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) Scale 129**, the appropriate multiplier according to the age of mother (44 years at the time of the accident), is 14 and the appropriate deduction towards the personal expenses is $\frac{1}{2}$. Following the aforesaid judgment the multiplier is enhanced from 11 to 14 and the personal expenses are reduced from $\frac{1}{3}$ rd to $\frac{1}{2}$.

7. The Claims Tribunal has taken the minimum wages, but has not taken the increase in minimum wages due to inflation and rise in price index. 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. This 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 judgment, the income of the deceased is taken as Rs.5,578.50 [(Rs.3,719 + Rs.7,438)/2].

8. Taking the income of the deceased as Rs.5,578.50 per month, deducting 1/2 towards the personal expenses and applying the multiplier of 14, the loss of dependency is computed to be Rs.4,68,594/- (Rs.5,578.50 x 12 x 14 x 1/2). Adding Rs.30,000/- towards loss of love and affection, Rs.5,000/- towards funeral expenses and Rs.5,000/- towards loss of estate, the total compensation is computed to be Rs.5,08,594/-.

9. The Claims Tribunal has awarded interest @ 6% per annum. However, following the judgment of Hon'ble Supreme Court in the case of **Dharampal & Ors. vs. U.P.**

State Road Transport Corporation, III 2008 ACC (1) SC,

the rate of interest is enhanced from 6% to 7.5%.

10. The appeal is allowed and the award amount is enhanced from Rs.3,95,000/- to Rs.5,08,594/- along with interest @ 7.5% per annum from the date of filing the claim petition till realization.

11. The enhanced award amount along with interest be deposited by respondent No.3 with UCO Bank A/c. Rekha Sharma, Delhi High Court Branch within 30 days through Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400). Upon payment of the said amount, respondent No.3 shall be entitled to be recovery of enhanced award amount from respondent Nos.1 and 2.

12. Upon the said amount being deposited, the UCO Bank is directed to release 10% of the said amount to the appellants by transferring the same to their joint Savings Bank account. The remaining amount be kept in the name of the appellants in fixed deposits in the following manner:-

- (i) Fixed deposit in respect of 10% of the amount in for a period of 6 months.
- (ii) Fixed deposit in respect of 10% of the amount for a period of one year.
- (iii) Fixed deposit in respect of 10% of the amount for a period of one and a half years.

- (iv) Fixed deposit in respect of 10% of the amount for a period of two years.
- (v) Fixed deposit in respect of 10% of the amount for a period of two and a half years.
- (vi) Fixed deposit in respect of 10% of the amount for a period of three years.
- (vii) Fixed deposit in respect of 10% of the amount for a period of three and a half years.
- (viii) Fixed deposit in respect of 10% of the amount for a period of four years.
- (ix) Fixed deposit in respect of 10% of the amount for a period of four and a half years.

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

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 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.

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 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.

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. 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

**MAY 18, 2010
HL**