

UNREPORTED

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

+ MAC.APP. 19/2011

NEW INDIA ASSURANCE CO. LTD. Appellant
Through: Mr. Sameer Nandwani,
Advocate.

versus

SUJATA & ORS. Respondents
Through

% Date of Decision : January 21, 2011

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?

ORDER (ORAL)

: REVA KHETRAPAL, J.

CM No. 220/2011

Exemption granted subject to all just exceptions.

The application stands disposed of.

CM No. 219/2011

This is an application praying for condonation of delay in filing the appeal. In view of the ground given in the application, the delay is condoned.

The application stands disposed of.

MAC APP. No. 19/2011 and CM No. 218/2011 (for stay)

By way of this appeal under Section 173 of the Motor Vehicles Act, 1988, the appellant-New India Assurance Co. Ltd. seeks setting aside of the order dated 14th July, 2010 passed by the Motor Accident Claims Tribunal, Central District, Delhi, whereby and whereunder an award in the sum of ₹ 7,64,400/- with interest @ 7.5% per annum from the date of the filing of the petition till the date of realization was passed.

2. The brief facts giving rise to the claim petition are that the deceased Sh. Laxmi Narain had gone for pilgrimage to Balaji in District Alwar, Rajasthan. On 15th September, 2005, at about 6.45 a.m. when he was driving back to Delhi in a Qualis car bearing registration no.DL-6C-G-6372 and had reached Shilalpur, near bus

stand Tijara, Distt. Alwar, his Quails car struck against a Tata 1612, bearing registration no.RJ-0Z-G-3895, which was parked negligently in the middle of the road, without any indication or parking lights, by its driver, the respondent No.6 herein. As a result thereof, the deceased died at the spot while five other persons accompanying him sustained grievous injuries.

3. Though all the respondents were duly served in the claim petition, written statement was filed only by the respondent nos.8 and 9, apart from the appellant herein. The appellant – Insurance Company, in its written statement, admitted that the offending vehicle bearing registration no. RJ-0Z-G-3895 was insured with it in the names of Smt. Reena Devi and Rajesh Kumar jointly arrayed as respondent no.7 herein.

4. Written statement was also filed by the respondent no.5, M/s. National Insurance Co. Ltd. admitting the factum of insurance of the Qualis car bearing registration no. DL-6C-G-6372 in the name of Bani Ram, the respondent no.4 herein.

5. After settlement of the issues the respondent No.1/petitioner, being the widow of the deceased-Laxmi Narain, examined herself as PW1 and closed her evidence. The respondents did not choose to lead any evidence to controvert the claim of the petitioners.

6. The learned Tribunal after holding that the accident in the case had taken place on account of negligence on the part of the driver of the offending vehicle Tata 1612 bearing registration no. RJ-0Z-G-3895, proceeded to compute the compensation payable to the widow and the two minor children of the deceased, which the Tribunal calculated to be in the sum of ₹ 7,64,400/-, inclusive of the amount of interim award and the non-pecuniary damages.

7. The sole ground on which the appeal has been pressed by Mr. Sameer Nandwani, the learned counsel for the appellant is that the Tribunal has “wrongly added future prospects as the same was not payable” because no evidence was led in this context. Mr. Nandwani contended that the Tribunal had failed to appreciate that the doubling of the minimum wages in ten years is only due to increase in the cost

of living and not for career progression. Accordingly, the amount awarded by the Tribunal was exorbitant and on the very high side.

8. I find from the record that apart from the fact that the appellant is not armed with the order under Section 170 of the Motor Vehicles Act, 1988, which order alone could have enabled the appellant to challenge the quantum of compensation awarded to the widow and the minor children of the deceased, the contention of Mr. Nandwani is even otherwise not sustainable in view of the long line of precedents in this regard; but before I advert to the judicial pronouncements on this subject, it is deemed expedient to take note of the findings of the learned Tribunal in this regard which are as under:

“17. LOSS OF FINANCIAL DEPENDENCY

Petitioner has filed on record only a few bills and visiting card of the deceased Ex.PW1/10 and Ex.PW1/11 to prove the employment of the deceased. Neither any proof nor any other document has been filed to prove the same. However, the petitioner has filed on record the school leaving certificate of the deceased Ex.PW1/14. As per the same, the deceased had failed in his class tenth examinations. No other proof regarding his educational qualification has been filed on record. Therefore, I am inclined to

grant minimum wages of non-matriculate. Minimum wages of a non-matriculate as on the date of accident were Rs. 3,398.50/- (round figure Rs.3,400/-).

It has been settled in the case 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 and the income should be computed by taking the average of minimum wages and its double.

Following the aforesaid judgment, the monthly income of the deceased will be Rs.3,400/- plus Rs.6800/- divided by $\frac{1}{2}$ which comes to Rs.5,100/-.”

9. From the aforesaid, it is clear that the learned Tribunal has taken note of the earlier decisions on the aspect of minimum wages rendered by the different Benches of this Court in the cases of *Kunwar Devi*, *Renu Devi* and *Munni Devi* (supra). Relying on the judgments rendered in the aforesaid cases of *Kunwar Devi* and *Munni Devi* (supra), this Court in a recent decision reported in *ILR*

(2010) Delhi 412 Shanti Devi and Ors. vs. Ghasiya Khachhap and Ors., reiterated that the Court should take judicial notice of the increase in minimum wages to meet the increase in the price index and inflation rate. It was further held that the Court has consistently taken the view that the minimum wages get doubled over a period of 10 years and the Court's taking into account the increase in minimum wages is not akin to taking into account the future prospects of the victim in his chosen job or vocation.

10. In a still more recent decision, this Court in ***M/s. ICICI Lombard General Insurance Co. Ltd. vs. Bimla & Ors., MAC APP. No. 625/2009 decided on 28th April, 2010*** reiterated the aforesaid position of law and made the following pertinent observations:

“.....The minimum wages are revised from time to time depending upon the prevalent inflation. The court can take judicial notice of the high rate of inflation prevalent during recent years and the manner in which the inflation was eating away the value of rupee. The result is that the statutory minimum wages are being revised by the State from time to time so that workmen do not starve, as the effort of industry is to employ workmen only on minimum wages. I, therefore, consider that the Tribunal rightly took into account future

prospects of minimum wages being revised from time to time and there was no illegality in it.”

11. When confronted with the aforesaid judicial pronouncements of this Court, no judgment to the contrary could be cited by the learned counsel for the appellant nor any cogent reason given as to why this Bench should differ with the consistent view taken by this Court that judicial notice of increase in the minimum wages, to meet the increase in price index and inflation rates, should be taken note of when the compensation payable to the victim or his legal representatives is being computed on the basis of the minimum wage rate. As a matter of fact, I find from the award in the instant case that the minimum wages have only been increased by 50% whereas the deceased was a young man of 31 years of age, who met with the accident on 1st January, 1994, and thus by 1st January, 2004, i.e. within a span of 10 years, the minimum wages would have doubled. Further, the multiplier adopted in the instant case, which is in consonance with the case of *Sarla Verma and Ors. vs. DTC and Anr .(2009) 6 SCC 121*, is of 16. This multiplier has not been faulted by the appellant-Insurance Company and hence it can safely

be presumed that within a span of 16 years from the date of the accident, the income of the deceased would have been three times his income on the date of the accident. The learned Tribunal, however, in consonance with the judgments of this Court has taken only a 50% increase to beat the inflation rate and the rise in the price index.

12. For the aforesaid reasons, I find no merit in this appeal and the same is dismissed. As prayed by the learned counsel for the appellant, the statutory amount deposited by the appellant at the time of the filing of the appeal be refunded to the appellant.

13. Before parting with the case, it may be mentioned that it is the governmental policy to increase the rate of minimum wages after the passage of every few years to meet the escalation in the cost of living and there does appear to be any justifiable reason as to why the aforesaid policy should be given a complete go-by by the Courts while calculating the income of the deceased for the purpose of computing the loss of dependency of his legal representatives. This is all the more so as the Motor Vehicles Act is designed to be a beneficial piece of legislation, and is meant to enure to the benefit of

the destitute and hapless where more often than not the bread-winner of the family dies unexpectedly in a motor vehicular accident.

**REVA KHETRAPAL
(JUDGE)**

January 21, 2011
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