

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

Date of Hearing & Decision: 3rd November, 2011

+ **MAC APP. 73/2011**

USHA GUPTA

..... Appellant

Through: Mr. S. N. Parashar, Adv.

Versus

RAM PARTAP & ORS.

..... Respondents

Through: Mr. Manoj Ranjan Sinha with Mr.
Vivekanand Rana, Adv.

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

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

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. The Appellant seeks enhancement of the compensation of ₹ 5,77,787/- awarded by the Tribunal by an order dated 12.07.2010 in respect of death of Dinesh Kumar Gupta who was aged 48 years at the time of accident, which took place on 28.02.2007. The grievance of the Appellant is that the Appellant had proved a salary certificate to show that the salary of the deceased was ₹ 8,000/- per month, but the same was disbelieved by the Tribunal. It is contended that even if the salary certificate was disbelieved, the Appellant ought to have been granted compensation on the basis of the minimum wages for skilled worker, instead of unskilled worker, as has been done by the Tribunal. It is argued that price indexation ought to have been taken into consideration by adding 50% of the amount in view of the judgments of this Court in *Kanwar Devi v. Bansal Roadways*, 2008 ACJ 2182; *National Insurance Co. Ltd. v. Renu Devi*, 111 (2008) ACC 134 and *UPSRTC v. Munni Devi*, MAC. APP. No.310/2007 decided on 28.07.2008.

2. The Appellants during enquiry before the Tribunal examined A. K. Chopra (PW-3) to prove the salary certificate Ex. PW-1/1. The same was rightly disbelieved by the Tribunal as neither any appointment letter was produced nor any Salary Register was proved to show that the deceased was employed with M/s. A. K. Chopra Builders and Consultants, Tialk Nagar, Delhi. There was nothing on record to prove that the deceased was a skilled worker. In these circumstances, the Tribunal rightly adopted the minimum wages of an unskilled worker to compute the compensation. The minimum wages are increased by the govt. from time to time to offset inflation and to improve the standard of living of the lowest paid worker. The indexation and increase may not be akin to future prospects but the criterion for 50% addition in the same i.e. to arrive at a suitable multiplicand to award just compensation is the source. Therefore, ratio of the Supreme Court in *Sarla Verma & Ors. v. Delhi Transport Corporation & Anr.*, 2009 (6) SCC 121, while giving the increase has to be on the basis of the age of the deceased or the dependent as the case may be at the time of the accident. Since the deceased was 48 years increase of 30% in minimum wages was just and proper.
3. I do not find any ground to interfere with the award, the appeal is hereby dismissed and the award is confirmed.

(G.P. MITTAL)
JUDGE

NOVEMBER 03, 2011

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