

UNREPORTED

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

+ FAO 412/2000

SMT. PARWATI

..... Appellant

Through: Mr. R.K. Tripathi, Advocate

versus

UNION OF INDIA & ORS.

..... Respondents

Through: None

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Date of Decision : May 16, 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.

1. By way of this appeal, the appellant seeks enhancement of the award dated 31st August, 2000 passed by the Motor Accident Claims Tribunal, whereunder the appellant was held entitled to an amount of Rs.59,600/-, with interest thereon, against the respondents for the

untimely demise of her daughter in a motor vehicular accident, which took place on 19th December, 1985.

2. The undisputed facts in the present case are that the deceased was aged 18 years and was unmarried on the date of the motor accident. The appellant-Smt. Parwati, being the mother of the deceased, is her only legal heir as her father had already expired before the said accident. The appellant, who appeared in the witness box as PW5, deposed that the deceased was doing various house jobs for the family which was residing at C-II/32, Moti Bagh, New Delhi and in lieu of her services, they had given her a servant quarter. She further deposed that the services rendered by the deceased were of the value of Rs.1,000/- per month. This is the evidence given by the appellant regarding income of the deceased. The Claims Tribunal, after noting that in her evidence the appellant had given the value of the services rendered by the deceased to their household as Rs.1,000/- per month, further noted that in the petition the appellant had given the value of the services of her daughter to be Rs.800/- per month. The Tribunal also noted that the appellant had pleaded in paragraph 2 of the petition that had the deceased been alive, she would have given

at least a sum of Rs.600/- per month to her. The Tribunal, accordingly, computed the annual income of the deceased to be in the sum of Rs.9,600/- per annum, i.e., Rs.800X12. From the aforesaid income of the deceased, the Tribunal deducted 1/3rd towards the living expenses of the deceased, and thus ascertained the dependency of the appellant on the deceased to be in the sum of Rs.6,400/- per annum. To the aforesaid multiplicand, the Tribunal applied the multiplier of 9, thereby calculating the compensation for loss of dependency awardable to the appellant to be in the sum of Rs.57,600/-. In addition to the said sum, the Tribunal also awarded a sum of Rs.2,000/- towards funeral expenses of the deceased.

3. Mr. Navneet Goel, the learned counsel for the Appellant has assailed the aforesaid computation of compensation awarded to the appellant by the Claims Tribunal by making a four-fold submission:

- (i) The Claims Tribunal could not have deducted 1/3rd of the income of the deceased towards her living expenses in view of the fact that once the value of the services rendered by deceased to the household is taken, there cannot be any further deduction.

(ii) The appropriate multiplier in the instant case should have been the multiplier of 14 instead of the multiplier of 9 as adopted by the Claims Tribunal.

(iii) The Claims Tribunal erred in awarding nothing to the claimant towards the loss of love and affection of her daughter and the loss of estate of the deceased.

(iv) No cogent reason was assigned by the Tribunal for not awarding any interest for the period intervening 6th September, 1988 to 26th September, 1994.

4. Respondents No. 1 and 2 contested the claim petition by filing counter affidavit wherein the respondents sought to support the award.

5. After hearing the learned counsel for the Appellant, this Court is inclined to agree with all the four submissions put forth by him for enhancement of the award amount. As regards the first submission, it is evident from the record that what the Claims Tribunal took into account for the purpose of computation of loss of dependency of the appellant was the value of services rendered by the deceased. Indubitably, once the value of services is taken, there cannot be any

further deduction towards personal expenses. As regards the multiplier adopted by the Claims Tribunal, the appellant who was the mother of the deceased was 41 years of age at the time of the accident and for the age group of victims between 41 years and 45 years of age, the appropriate multiplier in consonance with the judgment of the Supreme Court rendered in the case of ***Smt. Sarla Verma and Ors. V. Delhi Transport Corporation and Anr. AIR 2009 SC 3104***, is the multiplier of 14. The submission of learned counsel for the appellant that the appellant was also entitled to general damages for the loss of love and affection and loss of the estate of the deceased is also well-founded, for, it is settled law that in a death case non-pecuniary damages under the aforesaid heads are liable to be awarded to the legal representatives of the deceased. Finally, on the aspect of interest, I find no cogent reason as to why interest for the period intervening 6th September, 1988 and 26th September, 1994 was not awarded to the appellant, in as much as there does not appear to have been any deliberate delay on the part of the appellant in adducing her evidence. Even otherwise, it is settled law that interest is awarded for the forbearance and detention of the principal amount and is liable to

be awarded from the date of filing of the claim petition for compensation till the date of the realisation of the award amount.

6. In view of the aforesaid, the compensation payable to the appellant must be re-computed in accordance with the evidence on record and the settled legal position. Assuming the value of the services rendered by the deceased to be in the sum of Rs.9,600/- per annum and applying the multiplier of 14 thereto, the total loss of dependency of the appellant works out to Rs.1,34,400/-. Adding non-pecuniary damages of Rs.10,000/- towards loss of love and affection and Rs.5,000/- towards loss of the estate of the deceased and the sum of Rs.2,000/- awarded by the tribunal for the funeral expenses of the deceased, the total compensation payable to the appellant works out to Rs.1,51,400/- which may be rounded off to Rs.1,51,000/-.

7. The appellant is, accordingly, held entitled to receive a sum of Rs.1,51,000/- with interest @ 9% per annum as awarded by the Claims Tribunal from the date of filing of the petition i.e. 12th March, 1986 till the date of realisation, including the period between 6th September, 1988 and 26th September, 1994. The enhanced amount of compensation shall be paid to the appellant by the Respondents

within 30 days of the receipt of this order, by depositing the same in this Court.

8. The appeal stands allowed to the aforesaid extent.

9. A copy of this order be sent to the Respondents by the Registry forthwith.

REVA KHETRAPAL

(JUDGE)

May 16, 2011
‘raj’