

UNREPORTED

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

+ FAO 43/2003

DALJIT KAUR AND ORS. Appellants
Through: Mr. O.P.Mannie, Advocate
versus

AZAD SINGH AND ORS. Respondents
Through: Ms. Manjusha Wadhwa,
Advocate for the respondent
No.3/Insurance Company.
% Date of Decision : August 09, 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. This appeal preferred under Section 173 of the Motor Vehicles Act, 1988 seeks to assail the award dated 16.10.2002 passed by the Motor Accident Claims Tribunal, Delhi, whereby a sum of ₹ 2,60,000/- was awarded to the appellants by way of compensation for the untimely demise of one Shri Surinder Singh, who met with a

road accident on 10.12.1999, in which he sustained grievous injuries to which he succumbed on the same day.

2. The sole contention of Mr. O.P.Mannie, the learned counsel for the appellants, is that the manner of computation of the award amount adopted by the learned Tribunal is not in accordance with the legal principles laid down and affirmed by the Hon'ble Supreme Court from time to time. Mr. Mannie contends that the learned Tribunal erred in rejecting the salary certificate of the deceased on the sole ground that the proprietor himself did not appear in the witness box to prove the same and instead sent the Manager of the firm to depose with regard to the salary of the deceased. It is also contended by Mr. Mannie that the learned Tribunal, while taking the minimum wage rate for a semi-skilled workman for the purpose of assessment of the income of the deceased, erroneously did not take into account the future increase in his income, which was inevitable keeping in view the fact that the deceased was only about 40 years of age at the time of his demise.

3. It is further contended by the learned counsel that the deduction

of one-third from the income of the deceased for the personal expenses and maintenance of the deceased was unjustified in view of the fact that the deceased had left behind him a family comprising of four dependant members, namely, his wife, two minor sons and mother. According to Mr. Mannie, the learned Tribunal ought not to have deducted more than the one-fourth of the income of the deceased for the purpose of computing the loss of dependency of his legal representatives.

4. As regards the multiplier adopted by the learned Tribunal for the purpose of augmenting the multiplicand constituting the loss of dependency of the legal heirs of the deceased, Mr. Mannie submits that even assuming the age of the deceased to be 42 years as assessed by the learned Tribunal, the multiplier should be the multiplier of 15 in accordance with the Second Schedule appended to the Motor Vehicles Act, 1988 and, in any case, the multiplier should not be below the multiplier of 14, which has been held to be the appropriate multiplier for the age group of deceased persons between 41 years to 45 years by the Hon'ble Supreme Court in the case of *Smt. Sarla*

Verma and Ors. vs. Delhi Transport Corporation and Anr. (2009) 6 SCC 121.

5. Ms. Manjusha Wadhwa, the learned counsel for the respondent No.3/Insurance Company, on the other hand, seeks to support the award by contending that the amount of compensation awarded by the learned Tribunal is just and fair, keeping in view all the facts and circumstances of the case.

6. Having heard the learned counsel for the parties and scrutinized the records, I am of the view that though the learned Tribunal (in view of the fact that the appellants failed to place on record sufficient proof regarding the income of the deceased) rightly resorted to the wages notified under the Minimum Wages Act, yet the income assessed by the learned Tribunal to be the income of the deceased at the time of the accident relevant for the purpose of assessing the loss of dependency of the appellants, is on the lower side and deserves to be revised. It is well known that the minimum wages as notified by the Government of India from time to time double in the course of ten years, and it has therefore been the consistent view of various

Benches of this Court that while calculating the compensation on the basis of minimum wages, the same have to be doubled and averaged to provide for the rise in inflation and reduction in the value of money. The following are some of the judgments of this Court wherein the aforesaid view has been taken:

- (i) ***Kanwar Devi vs. Bansal Roadways, 2008 ACJ 2182;***
- (ii) ***National Insurance Co. Ltd. vs. Kailash Devi, II (2008) ACC 770;***
- (iii) ***National Insurance Company Limited vs. Renu Devi, III (2008) ACC 134;***
- (iv) ***UPSRTC vs. Munni Devi, IV (2009) ACC 879;***
- (v) ***Shanti Devi and Ors. vs. Ghasiya Khachhap and Ors., ILR (2010) Delhi 412;***
- (vi) ***Jitender Kumar vs. Virender Singh, II (2010) ACC 322;***
- (vii) ***New India Assurance Co. Ltd. vs. Sujata & Ors., MAC. APP. No.19/2011 decided on January 21, 2011; and***

(viii) *The New India Assurance Co. Ltd. vs. Rajni Devi & Ors.*, 2011 (179) DLT 744.

7. Thus, in view of the aforesaid decisions of this Court, in the present case also it would be appropriate to take into account the minimum wages of the deceased on the date of the accident and after doubling the same, to divide the sum total by two to arrive at the average minimum wages per month, which the deceased would have drawn during his lifetime. Thus calculated, the income of the deceased works out to ₹ 3,771/- per month (Rupees three thousand seven hundred and seventy one only) [that is ₹ 2,514/- (the wages of the deceased on the date of the accident, as notified) plus ₹ 5028/- (the anticipated wages of the deceased) divided by 2].

8. In view of the fact that the deceased had four family members to support, I am inclined to agree with the contention of the learned counsel for the appellants that he could not have been spending one-third of his income on his own expenses and maintenance. Accordingly, a deduction of one-fourth of the income of the deceased towards his personal expenses would, in my view, be just and fair.

Thus calculated, the average monthly loss of dependency of the deceased comes to ₹ 2,828.25 per month, that is, ₹ 33,939/- per annum (Rupees thirty three thousand nine hundred and thirty nine only).

9. With regard to the appropriate multiplier to be adopted for the purpose of augmenting this multiplicand, I am at one with the learned counsel for the appellants that the multiplier of 11 applied by the learned Tribunal is on the lower side and the appropriate multiplier in the instant case, having regard to the fact that the deceased fell in the age group of 41 years to 45 years, would be the multiplier of 14, which is also the multiplier approved of by the Hon'ble Supreme Court in the case *Sarla Verma (supra)*. Accordingly, the total amount of pecuniary compensation payable to the appellants works out to ₹ 33,939 x 14 = ₹ 4,75,146/- (Rupees four lakhs seventy five thousand one hundred and forty six only).

10. In view of the fact that the Tribunal, though has awarded a sum of ₹ 10,000/- towards the loss of consortium and ₹ 7,384/- towards the funeral expenses and last rites of the deceased, has not awarded

any amount towards the loss of estate of the deceased and the loss of love and affection of the deceased, the sum of ₹ 10,000/- each is awarded under these two non-pecuniary heads. Thus, in all, the appellants are awarded a sum of ₹ 5,12,530/- , rounded off to ₹ 5,12,500/-, including the amount awarded by the learned Tribunal towards the loss of consortium of the appellant No.1 and the funeral expenses and last rites of the deceased.

11. Resultantly, the award amount is enhanced by ₹ 2,52,500/- with interest at the rate of 7.5% per annum from the date of the institution of the petition till the date of realisation. The respondent No.3/Insurance Company is directed to deposit the enhanced amount of compensation along with the interest thereon within 30 days from the date of the passing of this order.

12. The appeal is allowed to the aforesaid extent.

13. The records of the learned Tribunal be sent back forthwith.

**REVA KHETRAPAL
(JUDGE)**

August 09, 2011
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