

UNREPORTED

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

+ MAC. APP. 162/2007

RUKMANI DEVI & ANR. Appellants

Through: Mr. J.S.Kanwar, Advocate.

versus

JITENDER SINGH & ORS. Respondents

Through: None.

% Date of Decision : August 19, 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. The present appeal has been filed by the legal representatives of the deceased – Ramesh against the judgment and order of the Motor Accident Claims Tribunal dated 05.09.06 passed in Suit No.259/2004 awarding a total compensation of ₹ 2,61,200/- with interest thereon in favour of the appellants.

2. The brief facts leading to the filing of the present appeal are that on 07.11.2004, the said Ramesh received grievous injuries in a road accident leading to his demise on the spot. The legal representatives of the deceased viz., the mother and the sister of the deceased filed a claim petition claiming compensation for the untimely demise of their bread earner against the driver, the owner and the insurer of the offending vehicle. The learned Tribunal, after appreciating the evidence on record, awarded a total sum of ₹ 2,61,200/- in favour of the claimants along with interest at the rate of 6% per annum from the date of the filing of the suit till the date of the realization of the award amount.

3. Aggrieved therefrom the appellants have filed the present appeal seeking enhancement of the aforesaid award amount. Though, a number of grounds are taken in the Grounds of Appeal, at the time of arguments, Mr. J.S.Kanwar, the learned counsel for the appellants, confined his challenge to the award to the following two grounds:

- (i) That the learned Tribunal erred in not giving the benefit of doubling of minimum wages while calculating the

loss of dependency of the appellants.

- (ii) That the rate of interest at 6% per annum, as awarded by the learned Tribunal is on the lower side.

4. None appeared on behalf of the respondents and I, therefore, did not have the opportunity to hear the respondents. Having heard the counsel for the appellants, I am of the view that the award amount deserves to be enhanced for the reasons mentioned hereinafter.

5. It is evident from the award that the learned Tribunal, for the purpose of computing the loss of dependency of the appellants, resorted to the minimum wage rate applicable to an unskilled workman as on the date of the accident, which was in the sum of ₹ 2,894.90/- per month (rounded off to ₹ 2, 900/- per month). The learned Tribunal, relying upon the judgment of the Hon'ble Supreme Court in the case of ***'BijoyKumar Dugar versus Bidhya Dhar Dutta and Others 2006(1) TAC 969 (SC)***, however, denied to the claimants the benefit of future prospects of increase in the income of the deceased. The said finding, to my mind cannot be upheld in view of the fact that the loss of dependency in the present case

has been assessed on the basis of minimum wage rate applicable on the date of the accident. In the case of '**Bali Singh and Others versus Ram Kumar Paswan and Others**' **MAC. APP. No. 523/2007** decided on July 19, 2011, while dealing with a similar fact-situation it was held by me as under:

*“6. As regards the first submission of the learned counsel for the appellants, I find from the perusal of the record that no evidence whatsoever is forthcoming as regards the income of the deceased. In such circumstances, the Tribunal rightly resorted to the Minimum Wage Rates notified by the Government for the purpose of computation of compensation payable to the appellants and no interference in that respect is called for. Coming now to the aspect of future prospects, I find that the Tribunal in its award has relied upon two judgments, viz. **Bulbul Chakrabarthy & Ors. versus Ram Kumar & Ors. 2001 ACJ 705 (Delhi)** and **Bijoy Kumar Dugar versus Bidyadhar Dutta & Ors. AIR 2006 SC 1255**, to deny the benefit of future prospects. The Tribunal, however, lost sight of the fact that the present award has been made on the basis of minimum wages and the benefit of inflation in respect thereof has to be allowed irrespective of whether or not there is any evidence regarding future prospects of increase in the income of the deceased. It has been the consistent view of various Benches of this Court that while calculating the compensation on the basis of minimum wages, the same has to be doubled and averaged to provide for the rise in inflation and reduction in the value of money. 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 Company Limited vs. Renu Devi, III (2008) ACC 134.***
- (iii) ***UPSRTC vs. Munni Devi, IV (2009) ACC 879.***
- (iv) ***Shanti Devi and Ors. vs. Ghasiya Khachhap and Ors., ILR (2010) Delhi 412.***
- (v) ***New India Assurance Co. Ltd. vs. Sujata & Ors., MAC. APP. No.19/2011 decided on January 21, 2011.***
- (vi) ***Jitender Kumar vs. Virender Singh, II (2010) ACC 322.***
- (vii) ***National Insurance Co. Ltd. vs. Kailash Devi, II (2008) ACC 770, and***

(viii) *The New India Assurance Co. Ltd. vs. Rajni Devi & Ors., MAC.APP. No. 9/2011 decided on May 13, 2011.*”

6. The legal position is, thus, well settled that as the minimum wages notified by the Government of India are revised periodically on account of rise in price index and cost of living and are, as a matter of fact, doubled in a period of ten years, the benefit of increase in minimum wages cannot be denied to the claimants claiming compensation under the Motor Vehicles Act.

7. In the above view of the matter, the average monthly salary of the deceased is taken to be in the sum of ₹ 4,350/- per month [that is ₹ 2,900/- (minimum wages as on the date of the accident) plus ₹ 5,800/- (double of the minimum wages) divided by 2]. The deceased is survived by two dependant family members, namely, his mother and sister and accordingly, the Tribunal deducted one-half of the monthly income of the deceased towards his personal and living expenses to which no challenge is made by the learned counsel for the appellants. Accordingly, the monthly loss of dependency of the

appellants comes out to ₹ 2,175/- per month, that is, ₹ 26,100/- per annum.

8. To augment the said multiplicand constituting the loss of dependency of the appellants, the Tribunal adopted the multiplier of 13 in view of the fact that the mother of the deceased was of 49 years of age at the time of the accident. The application of said multiplier is also not under challenge. Thus, the total loss of dependency awardable to the appellants comes out to ₹ 26,100/- X 13 = ₹ 3,39,300/-.

9. In addition to the sum payable towards the loss of dependency, the Tribunal also held the appellants entitled to a sum of ₹ 15,000/- towards the loss of love and affection, a sum of ₹ 15,000/- towards the loss of estate and a sum of ₹ 5,000/- towards the funeral expenses of the deceased. The total compensation payable to the appellants accordingly works out to ₹ 3,74,300/-.

10. As regards the interest payable on the amount of the award, the Tribunal awarded interest at the rate of 6% per annum. The learned counsel for the appellants has contended that interest at the rate of 6%

per annum is on the lower side and deserves to be enhanced. There is substance in this contention and the rate of interest is accordingly enhanced to 7.5% per annum from 6% per annum, which shall be payable from the date of filing of the petition till the realization of the award amount.

9. Resultantly, the award is modified to the aforesaid extent. The enhanced award amount of ₹ 3,74,300/- along with the interest at the rate of 7.5% per annum, excluding the sum already paid, shall be paid to the appellants within four weeks from the date of this order by the respondents in terms of the order of the learned Claims Tribunal. The appeal stands disposed of accordingly.

10. Records of the learned Tribunal be sent back forthwith.

**REVA KHETRAPAL
(JUDGE)**

**August 19, 2011
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