

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

Reserved on: 18th November, 2011
Pronounced on: 23rd November, 2011

+ **MAC APP. 283/2011**

RAM RATI GOYAL & ORS. Appellants
Through: Mr. Manish Maini, Advocate.

Versus

HARMEET & ORS. Respondents
Through: Mr. J.P. N. Shahi Advocate for
R-3 Insurance Company.

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.

1. The Appellants seek enhancement of the compensation of ₹ 11,51,625/- awarded by the Tribunal by an award dated 23.12.2010. Deceased Salajit Goyal was aged about 42 years on the date of the accident i.e. on 06.01.2010. He was survived by the Appellant Ram Rati Goyal (widow) and three sons.
2. The only ground urged by the learned counsel for the Appellants is that the deceased's income at ₹ 1,15,632/- was established as per the Income Tax Return for the previous year

2008-2009, yet the Tribunal took an annual income of the deceased to be ₹ 1,00,000/- to calculate the dependency. For the assessment year 2007-2008, the deceased's income was ₹ 1,08,151/-. There was savings of ₹ 11,648/- under Section 80 C of the Income Tax Act. Income for the year 2008-2009 was ₹ 1,15,632/- and there was no savings under Section 80C. The Tribunal was perhaps under the impression that the amount of ₹ 11,648/- two years prior to the accident was towards expenditure on business and that is why the annual income was assessed to be about ₹ 1,00,000/-. This finding, to my mind, cannot be sustained. The deceased's income ought to have been taken at ₹ 1,15,632/-.

3. It is urged by the learned counsel for the Appellant that although the Tribunal noticed that there was gradual increase in the deceased's income as per the Income Tax Return for the year 2007-2008 and 2008-2009, yet the future prospects were not taken into consideration. During inquiry it was stated by the Appellant No.1 in her deposition as PW-1 that the deceased was running a *Kiryana* shop in his house. Apart from the widow (Appellant No.1), the deceased had three grown up sons who could look after the shop. Appellant No.1's testimony that the shop was closed after the deceased's death has to be taken with a pinch of salt. The Appellants were, therefore, not entitled to any additional compensation on account of future prospects.

4. No other point was raised. The compensation on the basis of the annual income of ₹ 1,15,632/- after deducting one-fourth towards the personal expenses (as held by the Tribunal) and applying the multiplier of 14 comes to ₹ 12,14,136/-. The amount of ₹ 10,000/- awarded towards the loss of love and affection was also on the lower side. The same needs to be raised to ₹ 25,000/-. The total compensation works out as under:-

Head	Awarded by the Tribunal in (₹)	Awarded by This Court in (₹)	Increase
Medicines and medical treatment	66,625/-	66,625/-	NIL
Loss of financial dependency	10,50,000/-	12,14,136/-	1,64,136/-
Loss of love & affection	10,000/-	25,000/-	15,000/-
Loss of consortium	10,000/-	10,000/-	NIL
Funeral Expenses	5,000/-	5,000/-	NIL
Loss of Estate	10,000/-	10,000/-	NIL
		TOTAL	1,79,136/-

5. Thus, the Appellants are entitled to enhancement of compensation to the extent of ₹ 1,79,136/-. Since the vehicle was insured with Respondent No.3 Oriental Insurance Company Limited, it is directed to make the payment of ₹ 1,79,136/- along

with interest @ 7.5 % per annum from the date of filing of the petition before the Tribunal till realization of the amount within six weeks.

6. The enhanced amount shall be deposited with UCO Bank, Delhi High Court Branch, New Delhi in the name of Appellant No.1 Smt. Ramrati Goyal wife of the deceased. 30% of the amount shall be transferred to her savings account which she would be entitled to withdraw at her will. Rest 70% of the enhanced amount along with proportionate interest shall be kept in a Fixed Deposit in the name of Appellant No.1 for a period of three years. Appellant No.1 shall not be entitled to any loan or withdrawal from the Fixed Deposit without the order of this Court.
7. The appeal is partly allowed and the impugned award is modified to the extent indicated above. No costs.
8. Copy of the order may be sent to the trial court for information and compliance.

(G.P. MITTAL)
JUDGE

NOVEMBER 23, 2011
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