

**UNREPORTED**

**\* IN THE HIGH COURT OF DELHI AT NEW DELHI**  
**+ MAC. APP. No. 507/2007**

SUDHIR KR. GAUTAM & ANR. .... Appellants  
Through: Mr. O.P. Mannie, Advocate  
versus  
UDAYAN KUMAR & ORS. .... Respondents  
Through: None

% Date of Decision : September 23, 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?

**J U D G M E N T (ORAL)**

**: REVA KHETRAPAL, J.**

1. By way of this appeal, the appellants, who are the legal representatives of the deceased Ms. Manushi Gautam seek enhancement of the compensation awarded to them by the Motor Accidents Claims Tribunal, New Delhi, by its judgment and award dated 3.4.2007 passed in Suit No.169/2007 titled as ***“Sudhir Kumar Gautam and Anr. Vs. Udayan Kumar and Ors.”***

2. The facts relevant for the decision of the present appeal are that on 06.05.2004, Ms. Manushi Gautam (hereinafter referred to as “the deceased”) was travelling as a pillion rider on the motorcycle driven by her brother. The said motorcycle, when it was in a stationary position at the red light traffic signal, was hit by an Army Bus bearing No. 03-P01-3514K from behind. As a result of this impact, Ms. Manushi Gautam received fatal injuries to which she succumbed on the spot. A criminal case bearing FIR No.105/04 was registered at Police Station Chanakyapuri, New Delhi against respondent No.1-the driver of the offending Army Bus. A Claim Petition under Section 166 of the Motor Vehicles Act, 1988 having been filed by the father and mother of the deceased claiming compensation of ₹ 15,00,000/- (Rupees Fifteen Lac only) for the accidental demise of their daughter, the Motor Accidents Claims Tribunal awarded a total compensation in the sum of ₹ 2,50,000/- (Rupees Two Lac Fifty Thousand only) payable by the respondents jointly and severally alongwith interest at the rate of 7% per annum from the date of the filing of the petition till its realization. Aggrieved therefrom, the present appeal has been

preferred by the parents of the deceased on the ground that a very meagre amount of compensation has been awarded by the learned Tribunal.

3. Mr. O.P. Mannie, the learned counsel for the appellants, has assailed the quantum of the award, *inter alia*, on the following grounds:

- (i) The learned Tribunal erred in assessing the income of the deceased @ ₹ 3,500/- per month, whereas the deceased was actually earning ₹ 10,000/- per month.
- (ii) The learned Tribunal failed to appreciate that the deceased was an Architect, and ignored altogether the fact that after qualifying her Higher Secondary Examination, the deceased had done a three year full-time diploma course in Architectural Assistantship.
- (iii) The learned Tribunal failed to take into consideration the future prospects of increase in the earnings of the deceased who was at the threshold of her career and would have earned much more in the near future if she

had not been crushed to an untimely and premature death.

- (iv) The learned Tribunal erred in deducting one-half (1/2) towards the personal expenses of the deceased.
- (v) The learned Tribunal erred in applying the multiplier of 10, instead of the multiplier of 18, which was the appropriate multiplier in view of the fact that the deceased was 23 years of age at the time of the accident.
- (vi) The learned Tribunal did not award any non-pecuniary damages on account of loss of estate of the deceased.

4. Although initially the respondents on service of notice of the filing of the appeal entered appearance, subsequently for reasons best known to them, the respondents chose to absent themselves from the proceedings. Despite Court notice having been issued to the respondent No.3 through the Secretary, Ministry of Defence, which was duly served, none appeared on behalf of the respondents, who remained ex-parte. Thus this Court did not have the opportunity of hearing the respondents.

5. A perusal of the judgment of the learned Tribunal shows that the learned Tribunal, after taking note of the fact that the appellants had proved on record the provisional certificate of the deceased, Ex.PW2/6 to show that the deceased had completed a three year diploma course in Architectural Assistantship from Meera Bai Polytechnic, New Delhi, held that in the absence of any document on record to prove the income of the deceased, the income of the deceased could not be assessed to be more than ₹ 3,500/- per month. Mr. Mannie, the learned counsel for the appellants has pointed out that even the minimum wage rate applicable to a graduate on the date of the accident was ₹ 3,622.90 per month and since the deceased had completed a technical course in Architecture, she was certainly more qualified than a Graduate *simpliciter*. I find merit in this submission of the learned counsel for the appellants and accordingly, I assess the income of the deceased to be not less than the minimum wage rate on the date of the accident, as applicable to a graduate, which was in the sum of ₹ 3,623/- per month.

6. As regards the future prospects of increase in the income of the deceased, I have no hesitation in holding that the appellants are entitled to a 50% increase on the income of the deceased at the time of her accidental death, for, certainly the deceased who was only 23 years of age on the date of the accident, would have made advancement in her career over a passage of time. Judicial notice has been taken time and again of the fact that even the minimum wages are being revised and increased twice in a year. This Court in a catena of decisions has held that the minimum wages are doubled over a period of ten years to beat the inflationary trend, and therefore, in the present case, it is necessary to provide the benefit of periodical increase in minimum wages to the appellants while ascertaining the loss of dependency caused to them as a result of the untimely death of their daughter. Thus calculated, the average monthly income of the deceased is assessed to be in the sum of ₹ 5,434/- per month, [that is, ₹ 3,623/- (minimum wages on the date of the accident) + ₹ 7,246/- (double of minimum wages) divided by two]. The average annual

income of the deceased accordingly works out to ₹ 65,208/- per annum.

7. As regards the contention of the learned counsel for the appellants that the Tribunal erred in deducting one-half (1/2) of the income of the deceased towards her personal expenses, I am not inclined to agree for the reason that the Supreme Court in the case of *Smt. Sarla Verma and Ors. vs. Delhi Transport Corporation and Anr. (2009) 6 SCC 121*, has unequivocally held that a deduction of not less than one-half (1/2) of the income of the deceased ought to be made by all Courts and Tribunals where the deceased is unmarried and the parents of the deceased are the claimants. Deducting one-half (1/2) from the income of the deceased, the average annual loss of dependency of the appellants comes to ₹ 32,604/- per annum.

8. On the aspect of multiplier also, it is a settled proposition that the multiplier to be adopted must be according to the age of the deceased or the claimants whichever is higher. In the present case, the mother of the deceased, according to the Identity Card issued by the Election Commission of India, was aged 36 years on 1.1.1994

which means that on the date of the accident, that is, on 6.5.2004, she was of 46 years of age and thus, the appropriate multiplier, in my view, would be the multiplier of 13, which is the multiplier approved of and tabulated by the Supreme Court in the case of *Sarla Verma (supra)*. Thus calculated, the total loss of dependency of the appellants comes to ₹ 4,23,852 /-. The learned Tribunal has awarded a sum of ₹ 30,000/- towards the loss of love and affection of the deceased and a sum of ₹ 10,000/- towards the funeral expenses and last rites of the deceased. In addition, it is deemed just and fair to award a sum of ₹ 10,000/- to the appellants for the loss of estate of the deceased.

9. In view of the aforesaid, the appellants are held entitled to receive a sum of ₹ 4,73,852/-, which may be rounded off to ₹ 4,74,000/- (Rupees Four Lac Seventy Four Thousand Only), from the respondents No.1 to 3, who are held jointly and severally liable to pay the same. The award amount is accordingly enhanced by a sum of ₹ 2,24,000/- (that is, ₹ 4,74,000/- – ₹ 2,50,000/- = ₹ 2,24,000/-). The interest on the enhanced amount shall be payable at the rate of 7.5%

per annum from the date of filing of the petition till realization of the award amount.

**10.** The award is modified to the aforesaid extent. The appeal is disposed of with the direction to the respondents No.1 to 3 to satisfy the award by depositing the enhanced amount of the award along with interest thereon with the Registrar General of this Court within 30 days from the date of the passing of this order, which shall be released to the appellants in equal proportion.

**11.** Records of the Tribunal be sent back to the concerned Tribunal.

**12.** A copy of this order be sent to the respondents for compliance.

**REVA KHETRAPAL  
(JUDGE)**

**September 23, 2011**  
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