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

+ **MAC. APP. 718/2010 and CM 19186/2010**

NEW INDIA ASSURANCE COMPANY LTD Appellant
Through: **Ms. Neerja Sachdeva, Advocate**

versus

RAMESH & ORS Respondents
Through: **Mr. S. N. Parashar, Advocate for
the respondent Nos. 1 & 2**

% **Date of Decision : February 04, 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?

) Yes
Yes

ORDER (ORAL)

: REVA KHETRAPAL, J.

1. With the consent of the counsel for the appellant and the respondents No. 1 and 2, the appeal is taken up for final hearing. In view of the fact that the present appeal has been filed by the appellant

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Insurance Company challenging the quantum of compensation, notice to the respondent Nos.3 and 4, who are the owner and the driver of the offending vehicle, is dispensed with.

2. The present appeal filed under Section 173 of the Motor Vehicles Act, 1988 seeks to assail the award dated 23.07.2010 passed by the Motor Accident Claims Tribunal, Rohini, Delhi in Claim Petition No.99/2010 titled as "***Shri Ramesh & Anr. vs. Shri Netarpal & Ors.***" whereby the Appellant Insurance Company has been held liable to pay compensation to Respondent No. 1 and 2 in the sum of Rs. 4,77,120/- alongwith interest at the rate of 7.5% per annum.

3. The brief facts leading to the filing of the claim petition are that one Shri Uma Shankar died in a motor accident on 16.11.2006 while he was driving a motorcycle and was hit by a speeding truck coming from the opposite direction and plying on the wrong side. He was survived by the Respondents No.1 and 2, being his father and mother, who filed a claim petition under Section 140 and 166 of the Motor Vehicles Act, 1988 seeking compensation for his untimely demise. The respondents No.1 & 2 claimed in the

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claim petition that the deceased Sh. Uma Shankar was doing the job of a driver but they did not place any material on record regarding the salary of the deceased.

4. The learned Claims Tribunal after accepting the allegation of the Respondents No.1 & 2 that the deceased had died on account of injuries suffered by him as a result of the rash and negligent driving of the Respondent No. 3 – the driver of the truck owned by the Respondent No. 4, held the appellant – Insurance Company liable to pay a sum of Rs.4,77,120/- to the respondents No.1 and 2 along with interest at the rate of 7.5% per annum from the date of the filing of the petition till the realization of the said amount.

5. I find from the record that the petitioners did not place on record any proof of income of the deceased and therefore in order to calculate the loss of dependency, the learned Tribunal took into account the minimum wages prevailing on the date of the accident for an unskilled person, which were in the sum of ₹ 3,312/- per month. The learned Tribunal thereafter, referring to the decision of this Court in *Jitender Kumar Vs. Virender Singh, II (2010) ACC 322*, wherein

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it was held that the Court should take judicial notice of increase in minimum wages to meet the increase in price index and inflation rate, took the average of the minimum wages and its double and arrived at the figure of ₹ 4,968/- per month. Since the deceased was unmarried at the time of the death, half of the wages were deducted therefrom towards the personal expenses of the deceased. The yearly loss of dependency of the claimants was, thus, assessed by the Tribunal to be in the sum of ₹ 29,808/-. To augment this multiplicand, the multiplier of 15 was applied on the basis of the age of Respondent No. 2 (the mother of the deceased), being 39 years. This was done in consonance with the judgment of the Supreme Court rendered in *Sarla Verma Vs. Delhi Transport Corporation, 2009 ACJ 1298*, wherein it was held that in case the deceased was unmarried at the time of death, the age of his dependants must be taken into consideration. The total loss of dependency was thus computed to be in the sum of ₹ 4,47,120/-, to which a sum of ₹ 10,000/- each was added towards loss of estate, loss of love and affection and funeral expenses.

6. Aggrieved by the aforesaid award, the appellant has preferred the present appeal in which the award has been sought to be assailed on the sole ground that the learned Claims Tribunal while taking the income of the deceased on the basis of the minimum wages applicable on the date of the accident to an unskilled workman, since the claimants had totally failed to prove the income of the deceased, erred in giving the benefit of doubling the minimum wages.

7. Ms. Neerja Sachdeva, the learned counsel for the Appellant, in support of her aforesaid contention, has placed reliance on the following two judgments:

i. *Sarla Verma Vs. Delhi Transport Corporation, 2009*
ACJ 1298

ii. *Bijoy Kumar Dugar Vs. Bidya Dhar Dutta, (2006) 3*
SCC 242

8. I find no merit in this contention of the appellant as it has been the consistent view of different Benches of this High Court that minimum wages get doubled over a period of 10 years, and this is not a fact which can be brushed aside while computing the loss of

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dependency of the legal representatives of the deceased in a motor vehicular accident. As regards the reliance placed on the cases of *Sarla Verma and Bijoy Kumar Dugar (supra)*, by the learned counsel of the Appellant, it is pertinent to note that in both the said cases the aspect of rise of minimum wage rate has not been touched upon and pertinently in the second case enhancement of compensation was refused on the ground that no material could be placed on record by the claimants to support their contention that the future prospects of the deceased ought to have been taken into consideration for the purpose of assessment of the income of the deceased. In the context of cases where compensation is awarded on the basis of minimum wages, however, this Court has, time and again, taken the view that the benefit of doubling of minimum wages must be given to counter the rise in price index and inflation; and that the Court's taking into account the increase in minimum wages is not akin to taking into account the future prospects of the deceased in his chosen job or vocation. The following, amongst others, are the decisions of this Court taking the aforesaid view:

- (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,*
and
- (vii) *National Insurance Co. Ltd. vs. Kailash Devi, II (2008) ACC 770.*

9. During the course of hearing no cogent reason could be given by the learned counsel for the appellant as to why this Bench should differ with the consistent view taken by different Benches of this Court that judicial notice of increase in the minimum wages to meet the increase in price index and inflation rates should be taken note of when the compensation payable to the victim or his legal

representatives is being computed on the basis of minimum wages. I, therefore, proceed on the basis that over a period of time the minimum wages earned by the deceased would have doubled.

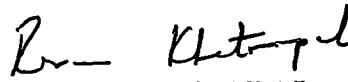
10. In the instant case, the deceased was 23 years of age when he met with the unfortunate accident on 16.11.2006 and thus by 16.11.2016, i.e., within the span of 10 years, the minimum wages of the deceased would have most certainly doubled. The learned Tribunal has applied the multiplier of 15, in consonance with the judgment of the Supreme Court in *Smt. Sarla Verma (supra)* and the choice of this multiplier has not been faulted by the Appellant. Thus, taking judicial notice of the fact that in 15 years the income of the deceased would be two and a half times of the minimum wage rate in the year 2006, it can safely be presumed that the income of the deceased would have risen to ₹ 8,280/- p.m. In the instant case, however, the average annual income of the deceased has been assessed by the Tribunal to be in the sum of ₹ 4,968/- per month by taking the average of the minimum wages and its double to beat the inflation rate and the rise in the price index. I, therefore, see no

justification at all to disagree with the findings of the learned Tribunal in this regard.

11. The appeal is without merit and is dismissed. The entire award amount which has been deposited with the Registrar General of this Court in terms of the order dated 28.10.2010 shall enure to the benefit of the claimants/the respondent Nos.1 and 2.

12. The prayer for refund of the statutory deposit made by the Appellant-Insurance Company with the interest accrued thereon, if any, is allowed.

14. Records of the learned Tribunal be sent back.


REVA KHETRAPAL
(JUDGE)

February 04, 2011
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