

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

Date of Decision: 18th November, 2011

+ **MAC APP. 32/2011**

ROOPA RANI & ORS. Appellants
Through Mr. Puneet Agrawal, Advocate.

versus

HARSH KUMAR MEHTA & ANR. Respondents
Through: Mr. Rajat Brar Advocate for R-2.

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. (ORAL)

1. This appeal is for enhancement of claim of compensation sought at the instance of the parents and siblings of deceased Jitender Gulati who was aged about 23 years and was earning ₹ 8480/- per month
2. The grievance of the Appellants is that the multiplier as per the age of the deceased should have been applied and the future prospects should also have been considered. It is submitted that an award of ₹ 10,000/- on account of love and affection was too low.

3. During trial, it has come in evidence that the two siblings i.e. Ms. Priya Gulati and Shri Gulbhshan (Appellants No.3 and 4 herein) were working. The Tribunal accepted the income of the deceased to be ₹ 8480/- as proved by the salary certificate; calculated 50% as dependency and applied the multiplier of 9 according to the age of the Appellant No.1 Roopa Rani, the mother of the deceased. The case is squarely covered by *Sarla Verma & Ors. v. Delhi Transport Corporation & Anr.*, 2009 (6) SCC 121. In para 31 and 32, the Supreme Court held as under:-

“31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependent. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependents, because they will either be independent and earning, or married, or be dependant on the father.

32. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the

contribution to the family. However, where the family of the bachelor is large and dependant on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.”

4. In this case, the siblings were gainfully employed and, therefore, the deduction towards the personal expenses could not have been taken as one-third. Thus, there is no error in computation of the dependency.
5. A sum of ₹ 10,000/- towards loss of love and affection, however, seems to be on the lower side, the same is enhanced to ₹ 25,000/-. The award amount is, therefore, enhanced by ₹ 15,000/- along with interest @ 7.5 % per annum to be paid by the Respondent No.2 the Insurance Company within 30 days, which shall be immediately released to Appellant No.1 Smt. Roopa Rani.
6. The appeal is allowed and the impugned award is modified to the extent indicated above. No costs.
7. Copy of the order may be sent to the trial court for information and compliance.

(G.P. MITTAL)
JUDGE

NOVEMBER 18, 2011
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