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

Date of decision: 8th October, 2012

+ **MAC.APP. 355/2012**

UTTARAKHAND TRANSPORT CORPORATION. Appellant
Through Mr.Harish Chandra Pant, Advocate

versus

BALESHWARI @ BALA & ORS Respondents
Through Mr.Partap Singh, Advocate for R1 to R-6

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. The Appeal is for reduction of compensation of ₹13,06,000/- awarded by the Motor Accident Claims Tribunal (the Claims Tribunal) in favour of Respondents No.1 to 6 for the death of Vinod Kumar, who died in a motor vehicle accident, which occurred on 07.01.2011.
2. During inquiry before the Claims Tribunal, it was claimed that deceased Vinod Kumar was doing a private job and earning ₹10,000/- per month.
3. In the absence of any cogent evidence with regard to the deceased's income, the Claims Tribunal declined to believe that the deceased's income was ₹10,000/- per month.
4. Thus, the Claims Tribunal took the minimum wages of an unskilled worker, that is, ₹5278/- as fixed by the Govt. of NCT of Delhi under the Minimum Wages Act at the time of accident; added 50% towards future

prospects; deducted one-fourth towards personal and living expenses (as per the dependants as six) and applied the multiplier of 14 to compute the loss of dependency.

5. The only ground of challenge raised by the Appellant Uttarakhand Transport Corporation is that since the deceased was aged 41 years, there could be an addition of only 30% in the income towards inflation/future prospects.
6. I would agree with the learned counsel for the Appellant. Although there was no evidence with regard to the deceased's future prospects, even if there would have been any evidence, the Claimants would have been entitled to an addition of 30%, as the deceased was aged more than 40 years. (see *Sarla Verma v. DTC*, (2009) 6 SCC 121 and *Santosh Devi v. National Insurance Company Ltd. & Ors.*, 2012 (4) SCALE 559.)
7. The loss of dependency thus comes to ₹8,64,536/-(5278 + 30% x 3/4 x 12 x 14).
8. The Claims Tribunal awarded a sum of ₹10,000/- towards loss of consortium, ₹60,000/- towards love and affection @ ₹10,000/- to each Claimant, ₹10,000/- towards loss to estate and ₹10,000/- towards funeral expenses diet, which is not challenged.
9. The overall compensation thus comes to ₹9,54,536/-
10. Consequently, the overall compensation stands reduced from ₹13,06,000/- to ₹9,54,536/-.

11. The excess compensation of ₹3,51,464/- along with proportionate interest and the interest accrued, if any, during the pendency of the Appeal shall be refunded to the Appellant Uttarakhand Transport Corporation.
12. The compensation awarded to the Claimants shall be released/held in fixed deposit in terms of the order passed by the Claims Tribunal.
13. The statutory deposit of ₹25,000/- be refunded to the Appellant Uttarakhand Transport Corporation.
14. The Appeal is allowed in above terms.
15. Pending Applications also stand disposed of.

(G.P. MITTAL)
JUDGE

OCTOBER 08, 2012

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