

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

Reserved on: 31st January, 2012
Pronounced on: 3rd February, 2012

+ **MAC.APP. 192/2004**

EKTA & ORS. Appellants
Through Mr. Navneet Goyal Adv. with
Ms. Suman N. Rawat, Adv.
versus

D.T.C. & ORS. Respondents
Through Mr. Abhay N. Das, Advocate
for R-1 & R-2.

CORAM:
HON'BLE MR. JUSTICE G.P.MITTAL

J U D G M E N T

G. P. MITTAL, J.

1. This Appeal is for enhancement of compensation of ₹3,23,560/- awarded for the death of Sunil Sharma, who was aged about 28 years at the time of the accident, which took place on 11.06.1995.
2. During inquiry before the Motor Accident Claims Tribunal (the Claims Tribunal) it was claimed that the deceased was in the Transport business in the name and style of M/s. Rohit Transport Company. He owned a tanker and was earning ₹ 6,000/- per month. The deceased's widow re-married before filing of the petition.

3. The Claims Tribunal, in the absence of any connection between M/s. Rohit Transport Company and the deceased declined to accept that the deceased was in transport business. It, therefore, took the minimum wages of a skilled worker and computed the loss of dependency.
4. It is urged by the learned Counsel for the Appellants that the deceased was having a contract with Indian Oil Corporation and it was unjust to accept the deceased's income as ₹ 1919/- per month and make an addition of just 50% in computing the loss of dependency.
5. It is contended that the appropriate multiplier as per the deceased's age was '17'. The Claims Tribunal committed an error in applying the multiplier of '14' as per the age of deceased's mother. The Claims Tribunal lost sight of the fact that the deceased had left behind a minor daughter also, although the widow had re-married.
6. On facts, the Claims Tribunal found that there was no evidence that the deceased owned any tanker or that he had any connection with M/s. Rohit Transport Company. In the circumstances, the deceased's income which was claimed to be ₹ 6,000/- per month could not have been accepted.
7. The Appellants were entitled to an addition of 50% on account of increase in the minimum wages to provide a better standard of living to the lowest paid workers.

8. In *National Insurance Company Ltd. v. Renu Devi & Ors., III* (2008) ACC 134, this Court held that the increase in the minimum wages is not on account of promotion of an unskilled worker or on account of advancement in his career but the same is due to the increase in the price index and cost of living. It has also to be borne in mind that the minimum wages are revised not only to meet the inflation but also to improve the standard of living of the lowest paid workers and to give them benefit of growth in GDP.
9. A perusal of the Notifications issued under the Minimum Wages Act would show that the minimum wages of a skilled worker were revised from ₹ 1919/- as on 01.02.1995 to ₹ 3589/- on 01.08.2005. Thus, it has to be noticed that there was an increase of about 85% in the minimum wages in just ten years. This was not on account of inflation but to provide a better standard of living to the lowest paid workers.
10. In *Renu Devi & Ors.(supra)* it was held as under:-

“9. In a recent decision of this Court Sh. Narinder Bishal and Anr. v. Sh. Rambir Singh and Ors., MAC App. 1007-08/2006, decided on 20.02.08 by Kailash Gambhir, J., it has been observed as under: -

“For determining the earning of the deceased or victim of the accident, the claimants are supposed to prove the exact income of the deceased by leading some cogent and reliable documentary evidence as to the nature of his employment or trade or business or in any other activity he was

involved in and then the said income can be taken into consideration for determining the quantum of compensation and if in such a case, the claimants are further able to establish the future prospects as well, then the criteria laid down in Sarla Dixit's case would get attracted. There can be another category of cases where the claimants are able to establish the future prospects of the deceased by quantifying the amount to be earned by the deceased in future with the help of cogent, reliable and convincing evidence and in all such cases the tribunal can take into consideration such future increase as has been established by the claimants on record. The difficulty however, would arise in all those cases where although the claimants are able to sufficiently establish on record the educational qualification of the deceased or the nature of his employment whether skilled, semi-skilled or unskilled but fail to establish by any reliable evidence to prove the exact income of the deceased. In such cases, question arises whether the Tribunal can take into consideration the minimum wages and the periodical revision of minimum wages as are fixed by the Government under the Minimum Wages Act. To examine this question, it will have to be considered whether the revision which takes place under the Minimum Wages Act can be equated with the future prospects of a deceased. As would be evident from catena of judgments of the Supreme Court, the future prospects have no correlation with the price index, inflation or denunciation of currency value.

The future prospects would necessarily mean advancement in future career, earnings and progression in one's life. It could be considered by seeing, from which post a person began his career, what avenues or prospects he has while being in a

particular avocation and what targets he/she would finally achieve at the end of his career. The promotional avenues, career progression, grant of selection grades etc. are some of the broad features for considering one's future prospects in one's career.

The minimum wage, in the very context of economy has a correlation with the growth and development of the nation's economy, postulating increase in the price index, reduction of purchasing power with the denunciation of currency value and consequent fixation of minimum wages giving some periodical increase so as to ensure sustenance and survival of the workman class. Keeping this in view, under no circumstance the revision of minimum wages can be treated on the same footing with the factor of future prospects.”

11. In view of the judgments of this Court in (i) *UPSRTC v. Munni Devi*, IV (2009) ACC 879; (ii) *National Insurance Company Ltd. v. Renu Devi & Ors.*, III (2008) ACC 134; and (iii) *Narinder Bishal & Anr. v. Rambir Singh & Ors.* MAC APP. 1007-08/2006 decided on 20th February, 2008, 50% of the minimum wages have to be added to offset the inflation due to indexation. The minimum wages are revised not only to meet the inflation but also to improve the standard of living of the lowest paid workers and hence there is need to add 50% of the minimum wages to arrive at the victim's income.
12. It is true that the inflation and price indexation is not the same as the future prospects, yet the future prospects are considered

where the deceased or injured is comparatively young. The principles as given in *Sarla Verma & Ors. v. Delhi Transport Corporation & Anr.*, (2009) 6 SCC 121, while considering the future prospects would equally apply while considering the inflation and price indexation in case of minimum wages i.e. an addition of 50% towards inflation and indexation where the deceased / injured was below 40 years, addition of 30% where the deceased/injured was above 40 years but below 50 years, and 'NIL' where the deceased/injured was more than 50 years.

13. I would agree with the learned counsel for the Appellants that when the deceased was survived by his small daughter and his parents, the multiplier should have been taken as per the age of the deceased or the Claimants whichever is higher. The appropriate multiplier in this case would be '17' as against '14' taken by the Claims Tribunal.
14. The loss of dependency works out as ₹3,91,476/- (1919/- +50% x 2/3 x 12 x 17).
15. In addition, the Appellants were entitled to a sum of ₹ 25,000/- towards loss of love and affection; ₹ 10,000/- towards loss to estate and ₹ 10,000/- towards funeral expenses. The total compensation thus comes to ₹ 4,36,476/-.
16. The overall compensation stands enhanced from ₹ 3,23,560/- to ₹ 4,36,476/- which shall carry interest @ 7.5 % per annum from the date of filing of the petition till the date of payment.

17. Respondent No. 1 DTC is directed to deposit the enhanced amount alongwith the upto date interest within 30 days in UCO Bank, Delhi High Court Branch, New Delhi.
18. The enhanced amount along with the interest shall be payable to the First Appellant and shall be held in a fixed deposit in UCO Bank, Delhi High Court Branch, New Delhi for a period of five years. The First Appellant shall be entitled to apply to the Claims Tribunal for premature encashment of FDR, in case the money is needed for her higher education and marriage.
19. The Appeal is allowed in above terms. No costs.
20. Pending application stands disposed of.

(G.P. MITTAL)
JUDGE

FEBRUARY 3, 2012

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