

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

Decided on: 10th January, 2012

+ **MAC APP. 463/2011**

SMT. GULABEEYA DEVI @ PACHIYA & ORS.

..... Appellants

Through: Mr. N.K. Jha Advocate

Versus

MEHBOOB ALI & ORS.

..... Respondents

Through: Mr. Tarkeshwar Nath, Adv. for R-3.

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. The Appellants who are the legal heirs of the deceased Chariter Sahni seek enhancement of compensation of ₹4,97,000/- awarded by the Motor Accident Claims Tribunal, (the Tribunal) by the impugned judgment dated 21.12.2010.
2. Chariter Sahni suffered fatal injuries in an accident on 08.05.2003. It was alleged that the Appellant was working as a rickshaw-puller and was earning ₹ 4,500/- per month. The Tribunal took the monthly income of the deceased to be ₹ 3,000/- per month and calculated the loss of dependency as ₹

4,32,000/- . After adding conventional sum, the overall compensation of ₹ 4,97,000/- was awarded to the Claimants.

3. The only contention raised by the learned counsel for the Appellants is that no increase in the minimum wages has been given by the Tribunal while computing the deceased's income.
4. It is true that there was no evidence led towards the deceased's future prospects. It was claimed that the deceased was getting a sum of ₹4,500/- per month. The same was not believed by the Tribunal in the absence of any cogent evidence. The Tribunal, therefore, assessed the monthly income of the deceased to be ₹ 3,000/- per month. Since the number of dependants were four, deduction of one-fourth was made towards deceased's personal and living expenses.
5. 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 a unskilled worker or on account of advancement in his career but the same is due to 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 the benefit of growth in GDP.
6. A perusal of the Notifications issued under the Minimum Wages Act would show that the minimum wages of an

unskilled worker were ₹2783.90/- on 01.02.2003 and the same were increased to ₹5278/- from 01.02.2010. Thus, it has to be noticed that there was an increase of about 50% in the minimum wages in seven years. This was not on account of inflation but to provide a better standard of living.

7. In *National Insurance Company Ltd. v. Renu Devi & Ors., III* (2008) ACC 134, 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.”

10. In The New India Assurance Co. Ltd. v. Smt. Nirmala Devi and Ors., [2007] VI AD (Delhi) 730, this Court held:-

“A perusal of the minimum wages notified under the Minimum Wages Act show that the minimum wages gets increased by nearly 150% in 10 years.”

11. The Court further observed:-

“Noting that minimum wages virtually double after every 10 years to neutralise increase in inflation, cost of living, purchasing power of rupee.....”

12. *Since the minimum wages have doubled in the past 10 years as per the Minimum Wages Act, therefore, safely the said increase at least can be taken in view as a future increase of double Minimum Wages under the Minimum Wages Act. Applying the said criteria, the income of the deceased as assessed in the year 2005 would increase to Rs.4,800/- and taking an average of the same, the Tribunal rightly assessed the income of deceased at Rs. 3,200/- per month.”*

8. The Supreme Court in the case of *Sarla Verma v. Delhi Transport Corporation & Anr.*, (2009) 6 SCC 121 laid down the following principles for grant of compensation in death cases:-

“I. MULTIPLIER

Age of the deceased (in years)	Multiplier
15-20	18
21-25	18
26-30	17
31-35	16
36-40	15
41-45	14
46-50	13
51-55	11
56-60	09

61-65	07
Above 65	05

II. DEDUCTION FOR PERSONAL AND LIVING EXPENSES

Deceased – unmarried

- (i) Deduction towards personal expenses.
: 1/2 (50%)
- (ii) Deduction where the family of the bachelor is large and dependent on the income of the deceased.
: 1/3rd (33.33%)

Deceased – married

- (i) 2 to 3 dependent family members. : 1/3rd
- (ii) 4 to 6 dependent family members : 1/4th
- (iii) More than 6 family members : 1/5th
- (iv) Subject to the evidence to the contrary. : Father, brother and sisters will not be considered as dependents.

III. FUTURE PROSPECTS

- (i) Permanent job : Actual salary – tax + 50%
Below 40 years of age : towards future prospects.
- (ii) Permanent job : Actual salary – tax + 30%
Between 40-50 years : towards future prospects.
- (iii) More than 50 years with: Actual salary only.
permanent job. : No addition for future prospects.

(iv) Deceased employed at a fixed: Only actual income to be Salary (without provision for taken. No addition. Annual increments)”

9. Hence, the Appellants would be entitled to addition of 50% of deceased's salary towards future prospects. Since the number of dependents were three (excluding father), one-third of deceased's income was liable to be deducted towards his personal and living expenses. The loss of dependency works out as ₹5,67,730/- (2783/- + 50% - $\frac{1}{3} \times 17 \times 12$).
10. The Appellants are further entitled to a sum of ₹ 5,000/- towards funeral expenses, ₹ 25,000/- towards loss of love and affection, ₹10,000/- towards loss of consortium, ₹ 10,000/- towards loss of estate. The overall compensation works out as ₹6,17,000/-.
11. The amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the petition till the date of payment. Oriental Insurance Company Limited, Respondent No.3 is directed to deposit the amount of compensation along with upto date interest within 30 days with the Registrar General of Delhi High Court, New Delhi.
12. The amount awarded by the Tribunal shall be paid/deposited in UCO Bank, Delhi High Court Branch in terms of the Tribunal's order. Out of the enhanced amount a sum of ₹ 20,000/- alongwith the proportionate interest shall be paid to the Appellant No.4 Smt. Dehauri Devi who is the deceased's

mother. Rest of the amount along with the proportionate interest shall be paid to the Appellant No.1 Smt. Gulabeeya Devi, widow of the deceased. This amount shall be held in fixed deposits for a period of three years.

13. The appeal is allowed in above terms.
14. Pending applications also stand disposed of.

(G.P. MITTAL)
JUDGE

JANUARY, 10, 2012
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