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

Pronounced on: 26.05.2015

+ MAC.APP.441/2012

HIMADRI DUTTA & ORS.	..Appellant
Through	Mr.A.Acharji and
	Mr.A.K.Mishra, Advs.

Versus

JOGINDER SINGH & ORS.	...Respondent
Through	Mr.Pankaj Seth, Adv. for
	R-3

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J.

1. The present appeal is filed by the claimants seeking enhancement of compensation as per Award dated 30.11.2010. The brief facts are that late Dr.Nabonita Dutta is stated to have died due to rash and negligent driving of respondent No.1 at Toll Tax barrier near Kalindi Kunj, Police Station Sarita Vihar, New Delhi.

2. Based on the evidence on record the Tribunal concluded that the deceased died due to rash and negligent driving of respondent No.1.

3. On compensation the Tribunal noted that the deceased was highly meritorious and possessed educational qualification of M.Sc., M.Phil and PHD in physics. She was working as Principal Investigator with Central Road Research Institute and getting a monthly income of Rs.15,000/-.

She was 37 years old. The Tribunal deducted 1/3rd towards personal expenses and awarded loss of dependency of Rs.18,00,000/-. Rs.10,000/- was awarded towards funeral charges, Rs.50,000/- towards loss of love and affection, Rs.10,000/- towards loss of consortium and Rs.10,000/- towards loss of estate. A total compensation of Rs.18,80,000/- was awarded.

4. Learned counsel appearing for the appellant has stated that the compensation is not adequate. He has made three submissions for enhancement of the compensation, He firstly submits that the deceased had a bright future and her income would certainly have arisen over time. The Tribunal while calculating loss of dependency has not granted future prospects. It is secondly submitted that one of the claimants Master Shivadri Dutta i.e. appellant No.3 is suffering from 'autistic features' and is undergoing treatment from AIIMS and Adlakha Speech and Hearing Clinic. It is urged that he has lost the care and affection of his mother on account of which the appellant No.1 is forced to retain an attendant. Hence, it is urged that the appropriate compensation for attendant charges may also be awarded to the claimants. It is thirdly submitted that the Tribunal has awarded interest @7.5% per annum from the date of filing of the claim petition. It is stated that the compensation should be awarded from the date of the accident.

5. Learned counsel appearing for the respondent has argued that the compensation awarded is already on the higher side. It is urged that the husband, namely, appellant No.1 was not financially dependent on the deceased, his wife and no loss of dependency could be awarded.

6. As far as grant of future prospects while computing loss of

dependency is concerned, I can take judicial note of the fact that minimum wages for a matriculate in 2002 were Rs.3115.40/- P.M. and in 2012 were Rs.8528/- P.M. It is obvious that the prescribed minimum wages have more than doubled in ten years.

7. In case of ***Rajesh & Ors. vs. Rajbir Singh & Ors., (2013) 9 SCC 54*** the Supreme Court held that in the case of self employed or those on fixed wages, when the victim is below 40 years an addition of 50% should be made in the wages for the purpose of computing loss of future earnings.

8. In the case of ***Smt.Savita vs. Bindar Singh & Ors., (2014) 4 SCC 505***, the Supreme Court was of the view that in the case of self employed or those engaged on fixed wages, 30% increase in income over period of time would be appropriate. In the case of ***V.Mekala vs. M.Malathi & Anr., 2014 ACJ 1441***, the Supreme Court in the case of injury to a student who was studying in Class XI aged 16 years had awarded 50% increase for future prospects.

9. Further, this court in the case of ***ICICI Lombard General Insurance Company vs. Angrej Singh & Ors.*** in MAC APP. 846/2011 in judgment dated 30.09.2013 had gone into this issue and had noted the judgments of the Supreme Court in the case of ***Smt.Sarla Verma and Ors. vs. Delhi Transport Corporation and Anr., 2009 ACJ 1298***, ***Reshma Kumari & Ors. vs. Madan Mohan & Anr., 2013 ACJ 1253***, ***Rajesh & Ors. vs. Rajbir Singh & Ors., (supra)*** and other judgments and concluded that future prospects should be given to persons who are self-employed or on fixed wages.

10. I may further note that this court in MAC APP.761/2012 **Rakesh and Ors. vs. National Insurance Co. Ltd. and Ors.** vide judgment dated 02.04.2014 had in a case where the deceased was 24 years old added 50% to the income towards future prospects for computing loss of dependency based on the judgment of the Supreme Court in the case of **Rajesh & Ors. vs. Rajbir Singh & Ors.(supra)**. Against the said judgment the appellant had filed an SLP before the Supreme Court. The said SLP No.5612/2014 was dismissed by the Supreme Court on 10.10.2014.

11. Accordingly, I enhance the income of the deceased by 50% for the purpose of computing loss of dependency. The loss of dependency thus amounts to Rs.27,00,000/- $[(15,000/- + 50\%) - 1/3] \times 12 \times 15$.

12. Coming to attendant charges, the Tribunal has already awarded a sum of Rs.50,000/- towards loss of love and affection to the children. I enhance the sum to Rs.1,00,000/-.

13. Coming to the third contention of the appellants regarding rate of interest being awarded from the date of accident, there is no merit in the said claim of the appellants.

14. Total compensation now payable to the appellant would be as follows:-

Loss of dependency	Rs.27,00,000/-
Loss of love and affection	Rs.1,00,000/-
Funeral Charges	Rs.10,000/-
Loss of consortium	Rs. 10,000/-
Loss of estate	Rs.10,000/-
Total	<u>Rs.28,30,000/-</u>

15. Respondent No.3 may deposit the additional compensation amount as directed by this Court alongwith interest @ 7.5% per annum from the

date of filing the claim petition till deposit in Court. On receipt of the said amount same may be disbursed to the claimants in the same proportion as directed by the Tribunal. Appeal stands disposed of.

(JAYANT NATH)
JUDGE

MAY 26, 2015
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