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

% **Date of Decision: 27th April, 2018**

\+ MAC.APP. 226/2012

NARENDER SHARMA & ORS ..... Appellants

Through Mr. Navneet Goyal, Advocate

versus

PAWAN KUMAR & ORS ..... Respondents

Through Mr. J.P.N. Shahi, Advocate for respondent No.3.

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellants have challenged the award dated 19th November, 2011 of the Claims Tribunal whereby compensation of Rs.4,03,200/- has been awarded to the appellants. The appellants are seeking enhancement of the compensation amount.

2. The accident dated 26th February, 2007 resulted in the death of Amber Sharma. The deceased was aged 27 years at the time of the accident and was working with Ms/ Perfect Planet Enterprise earning Rs.15,000/- per month.

3. The Claims Tribunal took the minimum wages of unskilled worker of Rs.3,470/- as the income of the deceased, added 50% towards future prospects, deducted ½ towards personal expenses and applied the multiplier of 11 to compute the loss of dependency as Rs.3,43,200/-. The Claims Tribunal further awarded Rs.20,000/- towards loss of love and affection, Rs.20,000/- towards loss of estate and Rs.20,000/- towards funeral expenses.

The total compensation awarded is Rs.4,03,200/- along with interest at the rate of 7.5% per annum.

4. The appellant filed CM No.3807/2012 under Order XLI Rule 27 Code of Civil Procedure, 1908 for permission to lead additional evidence to prove the salary of the deceased. This application was allowed by this Court vide order dated 18th April, 2013 and the appellants were permitted to lead the additional evidence to prove the salary of the deceased.

5. The appellant appeared in the witness box and proved Form No.16 and 16A of the Income Tax Act of the employer as Ex.AW-1/1(Colly.)

6. On 21st September, 2017, learned counsel for respondent no.3 prayed for verification for the aforesaid documents by the Income Tax Department in pursuance to which Court notice was issued to the Income Tax Department and the Income Tax Department was directed to confirm as to whether the documents filed by the appellants were genuine.

7. The Income Tax Department has filed the status report dated 28th February, 2018 in which the documents filed by the appellants have been confirmed to be genuine as per the record.

8. Learned counsel for the appellants urged at the time of the hearing that the income of the deceased be taken as Rs.1,53,500/- per annum as per Form No.16 for the assessment year 2007-2008 (Ex.AW-1/1). It is submitted that 50% be added towards future prospects as the job of the deceased was permanent, 50% be deducted towards the personal expenses and multiplier of 17 be applied according to his age i.e. 27 years. It is further submitted that rate of interest be enhanced 7.5% to 9% per annum.

9. Learned counsel for the respondent urged at the time of the hearing that the non-pecuniary compensation be reduced in terms of principles laid

down in ***National Insurance Co. Limited v. Pranay Sethi and Ors.*** 2017 SCC Online SC 1270. Learned counsel for the respondents submits that the multiplier be applied according to the age of the mother instead of age of the deceased.

10. Taking the income of the deceased as Rs.1,53,500/- per annum as per Form No.16 for the assessment year 2007-2008 (Ex.AW-1/1) filed by the appellants, adding 50% towards future prospects, deducting ½ towards personal expenses and applying the multiplier of 17 as per the age of the deceased, the loss of dependency is computed as Rs.19,57,125/-. The non-pecuniary compensation is reduced to Rs.30,000/- (Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses) in terms of ***National Insurance Co. Limited v. Pranay Sethi*** *(supra).* The total compensation payable to the claimants is computed as Rs.19,87,125/-.

11. The appeal is allowed and the compensation amount is enhanced from Rs.4,03,200/- to Rs.19,87,125/- along with interest at the rate of 9% per annum with effect from date of institution of suit i.e. 16th April, 2007.

12. Respondent no.3 is directed to deposit the enhanced compensation amount with upto date interest with the Registrar General of this Court within four weeks.

13. List for disbursement of the compensation amount on 31st May, 2018.

14. Appellants no.1 and 2 shall remain present in Court on the next date of hearing along with the passbooks of their savings bank accounts near the place of their residence as well as PAN card and Aadhaar card.

15. The concerned bank of appellant no.2 is directed not to issue any cheque book or debit card to appellant no.2 and if the same have already been issued, the bank is directed to cancel the same and make an

endorsement on her passbook to this effect. The appellant no.2 shall produce the copy of this order to the concerned bank, whereupon the bank shall make an endorsement on the passbook of appellant no.2 that no cheque book and/or debit card shall be issued to appellant no.2 without the permission of this Court. However, the concerned bank shall permit appellant no.2 to withdraw money from her savings bank account by means of a withdrawal form. Appellant no.2 shall produce the original passbook of their individual savings bank account with the necessary endorsement on the next date of hearing.

16. Copy of this judgment be given *dasti* to learned counsels for the parties under the signatures of the Court Master.

J.R.MIDHA, J.

APRIL 27, 2018
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