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

% Judgment delivered on: 09.12.2021

+ **MAC.APP. 83/2021**

MAYA DEVI & ORS. Appellants

versus

SHAHNAWAZ & ORS. Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Somnath Parashar, Advocate (through VC)

For the Respondent: Mr. Rajeev M. Roy, Advocate for R-3 (through VC)
Mr. Pankaj Gupta, Advocate for Ms. Suman Bagga,
Advocate for R-6

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (Oral)

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1. Appellants/claimants seek enhancement of compensation as awarded by award dated 04.01.2019.

2. The case of the claimants before the Motor Accidents Claim Tribunal was that on 17.07.2017 at about 5.00 a.m., their predecessor Mr. Ram Prakash Verma was travelling with Sh. Phool Chand Verma, Sh. Om Prakash and Aatish in light goods vehicle which was being

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driven in a rash and negligent manner. Said vehicle ran into a stationary goods vehicle which was parked in the middle of the road without any indicator or signal. The predecessor of the appellants Mr. Ram Prakash Verma sustained fatal injuries and expired.

3. The Tribunal, while assessing the income of the deceased, noticed that the deceased was working as a gardener and no evidence was produced to prove his education or income. It had come on record that the deceased had passed 8th Standard in the academic session 1989-90.

4. In the absence of any cogent evidence with regard to his employment or income, the Tribunal held that the income should be on the basis of the then prevailing minimum wage i.e. Rs. 9724/- per month for unskilled worker.

5. It is contended by learned counsel for the appellant that the Tribunal has erred in holding Rs. 9724/- as the minimum wage, whereas on the date of the accident i.e. 17.07.2017 for non-matriculate was Rs. 14,958/- including Dearness Allowance. He relies upon the order of the Government of NCT of Delhi dated 18.10.2018.

6. Learned counsel submits that the tribunal has erred in taking the minimum wage of an unskilled worker whereas the minimum wage for non-matriculate was to be taken

7. Further it is pointed out that the tribunal has erred in not appreciating ratio of the judgment of the Supreme Court in '*United India Insurance Company Vs. Satinder Kaur @ Satwinder Kaur*', (Civil Appeal No. 2705/2020) and erred in granting loss of consortium at a consolidated sum of Rs. 40,000/- for all the claimants, whereas for each of the five claimants, the amount should have been Rs. 40,000/- each.

8. There is no dispute by the insurance companies to the circular of minimum wage dated 18.10.2018 relied upon by learned counsel for the appellants.

9. Perusal of the circular dated 18.10.2018 shows that the rates as on 03.03.2017 i.e. prior to the accident for non-matriculate was Rs. 14,698/- and further with effect from 01.04.2017 a sum of Rs. 260/- per month is to be added towards Dearness Allowance. Accordingly, the minimum wage as on the date of the accident i.e. 17.07.2017 was Rs. 14,958/- and not Rs. 9,724/- as held by the tribunal.

10. There is no dispute that the deceased was a matriculate and as such the minimum wage of a matriculate was liable to be taken into account and not the minimum wage of an unskilled worker. Further, even the minimum wage of an unskilled worker, as per the said circular, was much higher.

11. Further it is apparent that the tribunal has erred in not noticing

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the decision of the Supreme Court in *Satinder Kaur @ Satwinder Kaur (supra)* and erred in granting a consolidated sum of Rs. 40,000/- for 'Loss of Consortium'. It is settled position that not only the spouse but the children and parents are entitled to compensation on the ground that loss of parental consortium and loss of filial consortium.

12. Accordingly, the impugned order to the said extent also deserves to be modified.

13. In view of the above, the appeal is allowed. The minimum wage for the purpose of computation of income is taken at Rs. 14,958/- in place of Rs. 9,724/- and the compensation for loss of consortium is enhanced from Rs. 40,000/- to Rs. 40,000 x 5 = Rs. 2,00,000/-.

14. The case shall be listed before the concerned Tribunal on 12.01.2022 for the purposes of re-computing the compensation. On re-computation of the compensation, the insurance companies, i.e. respondent no. 3 and 6 shall deposit their proportionate share with the tribunal within four weeks. On the deposit of the same, the same shall be disbursed to the claimants as per the scheme of disbursal.

CM APPL. 5698/2021 (delay in filing appeal) & CM APPL. 5700/2021 (delay in re-filing appeal)

15. It is observed that the appellants are illiterate and belong to very poor strata of the society. The deceased at the time of the accident

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was only 41 years of age and has left two minor children besides old parents.

16. Appellants have sufficiently explained the delay in approaching this Court within the stipulated time and explained the delay. Furthermore, the statute is a beneficial legislation and just a fair compensation has to be awarded. As noticed above, the tribunal has *ex-facie* committed an error in assessment of compensation by not taking into account the correct notified minimum wage or the judgment of the Supreme Court.

17. Accordingly, on that ground also, I am of the view that the delay in filing the appeal and re-filing the appeal deserves to be condoned. The applications are accordingly allowed and the delay is condoned.

SANJEEV SACHDEVA, J

DECEMBER 9, 2021
‘rs’

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