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

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Date of Decision: 27th May, 2021

+ MAC.APP. 1150/2018

10 AMIR BANO & ORS Appellants

Through:

Ms. Aruna Mehta, Advocate.

versus

DHARA SINGH & ORS Respondents

Through:

Ms. Shuchi Singh, Advocate
for Insurance Company.

+ MAC.APP. 1153/2018

11 KHATOON BEGUM & ANR Appellants

Through:

Ms. Aruna Mehta, Advocate.

versus

DHARA SINGH & ORS (NEW
INDIA INSURANCE CO LTD) Respondent

Through:

Ms. Shuchi Singh, Advocate
for Insurance Company.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

J U D G M E N T (O R A L)

1. The appellants have challenged the award dated 05th June, 2018 whereby compensation of Rs.13,91,632/- has been awarded in respect of death of Atiq Alam and compensation of Rs.3,45,340/- has been awarded in respect of Abdul Aziz.

2. The accident dated 01st November, 2015 resulted in the death of Atiq Alam and Abdul Aziz. Atiq Alam was aged 39 years at the time of accident and was survived by his widow and six children who claimed compensation. Atiq Alam was running a meat shop in front of his house. Abdul Aziz was aged 80 years at the time of accident and was survived by widow who claimed compensation. Abdul Aziz was running a tea shop in front of his house.

3. In MAC.APP.1150/2018, the Claims Tribunal took the minimum wages of a unskilled person i.e. Rs. 9,178/- per month as income, deducted 1/5th towards personal expenses and applied multiplier of 15 to compute the loss of dependency as Rs.13,21,632/- . The Claims Tribunal awarded Rs.40,000/- towards loss of consortium, Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses. The total compensation awarded to the legal representatives of Atiq Alam is Rs.13,91,632/-.

4. In MAC.APP.1153/2018, the Claims Tribunal took the minimum wages of unskilled person i.e. Rs. 9,178/- per month as income, deducted 1/2 towards personal expenses and applied multiplier of 5 to compute the loss of dependency as Rs.2,75,340/-. The Claims Tribunal awarded Rs.40,000/- towards loss of consortium, Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses. The total compensation awarded to the legal representatives of Abdul Aziz is Rs.3,45,340/-.

5. Learned counsel for the appellants submits that in MAC.APP.1150/2018, the appellants are entitled to addition of 40% towards future prospects.

6. Learned counsel for the appellants, in both the appeals, submits that the minimum wages of a skilled person were Rs.11,154/- as on the date of the accident which should be taken as the income of both the victims. Reliance is placed on judgment titled ***Vidya Devi v. Dharampal***, FAO No. 369/1999, dated 20th March, 2007. Learned counsel for the appellants further submits in the appellants are entitled to spousal consortium, parental and filial consortium to the tune of Rs.40,000/- each in terms of ***United India Insurance Co. v. Satinder Kaur***, 2020 ACJ 2131 SC.

7. Learned counsel for the Insurance Company submits that the butcher has been shown as unskilled person in the notification of minimum wages.

8. This Court is of the view that Claims Tribunal has rightly taken the minimum wages of Rs.9,178/- per month in respect of an unskilled person as income of the deceased. However, 40% is added towards the future prospects. The claimants are entitled to loss of consortium of Rs.40,000/- per claimant.

9. In MAC.APP. 1150/2018, taking the income of deceased Rs.9178/- per month, adding 40% towards future prospects, deducting 1/5th towards personal expenses and applying the multiplier of 15, adding Rs.2,80,000/- (Rs.40,000 per claimant) towards loss of consortium, Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses, total compensation is computed as Rs.21,61,000/- (Rs.21,60,284.8 rounded of).

10. In MAC. 1153/2018, taking the minimum wages of Rs.9178/- per month as income of the deceased, adding 40% towards future

prospects, deducting 1/2 towards the personal expenses, and applying the multiplier of 5, adding Rs.40,000/- towards loss of consortium, Rs.15,000/- towards loss of estates, added Rs.15,000/- funeral expenses, total compensation is computed as Rs.4,56,000/- (Rs. 4,55,476/- rounded of).

11. MAC.APP.1150/2018 is allowed and the award amount is enhanced from Rs.13,91,632/- to Rs.21,61,000/- along with interest @ 9 % w.e.f from 28th January, 2016 till date.

12. MAC.APP.1153/2018 is allowed and the award amount is enhanced from Rs.3,45,340/- to Rs.4,56,000/- along with interest @ 9 % w.e.f from 28th January, 2016 till date.

13. Insurance Company is directed to deposit the enhanced award amount along with up to date interest with DSLSA within four weeks. The notice of deposit be sent by Insurance Company to the claimants.

14. DSLSA shall disburse the enhanced award amount to the appellants in terms of principles laid down in *Rajesh Tyagi v. Jaibir Singh* dated 08th January, 2021, MANU/DE/0051/2021.

J.R. MIDHA, J.

MAY 28, 2021
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