

\$~

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

%

Date of Decision: 23rd December, 2016

+ **MAC.APP. 182/2008**

UTTAR PRADESH STATE ROADWAYS Appellant
TRANSPORT CORPORATION

Through: Ms. Garima Prashad and Mr.
Shadab Khan, Advocate

Versus

R.K. SACHDEVA & ORS. Respondents

Through: Mr. S.N. Parashar, Advocate
Mr. Pradeep Gaur, Advocate for
National Insurance Co. Ltd.

+ **MAC.APP. 242/2008**

R.K. SACHDEVA Appellant

Through: Mr. S.N. Parashar, Advocate

Versus

UTTAR PRADESH STATE ROADWAYS Respondents
TRANSPORT CORPORATION & ORS.

Through: Ms. Garima Prashad and Mr.
Shadab Khan, Advocate
Mr. Pradeep Gaur, Advocate for
National Insurance Co. Ltd.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

J U D G M E N T

1. Both the parties have challenged the award passed by the Claims Tribunal whereby compensation of Rs.3,42,000/- has been

awarded in respect of death of Suruchi Sachdeva. The claimants are seeking enhancement of the award amount whereas U.P. State Road Transport Corporation is seeking reduction of the award amount.

2. The accident dated 04th May, 2003 resulted in the death of Suruchi. The deceased aged 18 years at the time of the accident, was a student of 12th standard and had appeared in medical entrance test. The deceased was survived by her father who filed the claim petition. The Claims Tribunal took the notional income of the deceased as Rs.3,000/- per month , deducted 1/3rd towards personal expenses and applied the multiplier of 13 according the age of father to compute the loss of dependency as Rs.3,12,000/-. The Claims Tribunal awarded Rs.10,000/- towards transportation of dead body, Rs.10,000/- towards loss of estate and Rs.10,000/- towards funeral expenses. Total compensation awarded is Rs.3,42,000/- along with interest @ 7.5% per annum.

3. Learned counsel for the claimants urged at the time of hearing that income of the deceased be taken as Rs.10,000/- per month, 50% be added towards future prospects and multiplier of 18 be applied to compute the loss of dependency. The claimants seek Rs.1 lakh towards loss of love and affection, Rs.1 lakh towards loss of estate and Rs.50,000/- towards funeral expenses. The claimants also seek enhancement of the rate of interest from 7.5% to 9%.

4. Learned counsel for UP State Road Transport Corporation seeks reduction of the award amount on the ground that notional income of Rs.15,000/- per annum be taken and personal expenses of the deceased be reduced from 1/3rd to 1/2.

5. This Court is of the view that the Claims Tribunal grossly erred in assuming the income of the deceased as merely Rs.3,000/- per month. In the case of *Municipal Corporation of Delhi v. Association of Victims of Uphaar Tragedy*, AIR 2012 SC 100 in which 59 persons died, the Supreme Court awarded compensation of Rs.10 lakh to persons above 20 years and Rs.7.5 lakh to persons below 20 years by assuming their income as Rs.8,333/- and Rs.6,429/- respectively. The Uphaar tragedy took place in the year 1997 whereas the accident in question took place on 04th May, 2003 i.e. 6 years after Uphaar tragedy. The findings of the Supreme Court are reproduced hereunder:-

“38. ... It can be by way of making monetary amounts for the wrong done or by way of exemplary damages, exclusive of any amount recoverable in a civil action based on tortious liability. But in such a case it is improper to assume admittedly without any basis, that every person who visits a cinema theatre and purchases a balcony ticket should be of a high income group person. In the year 1997, Rs. 15,000 per month was rather a high income. The movie was a new movie with patriotic undertones. It is known that zealous movie goers, even from low income groups, would not mind purchasing a balcony ticket to enjoy the film on the first day itself. To make a sweeping assumption that every person who purchased a balcony class ticket in 1997 should have had a monthly income of Rs. 15,000 and on that basis apply high multiplier of 15 to determine the compensation at a uniform rate of Rs. 18 lakhs in the case of persons above the age of 20 years and Rs. 15 lakhs for persons below that age, as a public law remedy, may not be proper. While awarding compensation to a large group of persons, by way of public law remedy, it will be unsafe to use a high

*income as the determinative factor. The reliance upon Neelabati Behera (AIR 1993 SC 1960 : 1993 AIR SCW 2366) in this behalf is of no assistance as that case related to a single individual and there was specific evidence available in regard to the income. Therefore, the proper course would be to award a uniform amount keeping in view the principles relating to award of compensation in public law remedy cases reserving liberty to the legal heirs of deceased victims to claim additional amount wherever they were not satisfied with the amount awarded. **Taking note of the facts and circumstances, the amount of compensation awarded in public law remedy cases, and the need to provide a deterrent, we are of the view that award of Rs. 10 lakhs in the case of persons aged above 20 years and Rs. 7.5 lakhs in regard to those who were 20 years or below as on the date of the incident, would be appropriate. We do not propose to disturb the award of Rs. 1 lakh each in the case of injured. The amount awarded as compensation will carry interest at the rate of 9% per annum from the date of writ petition as ordered by the High Court, reserve liberty to the victims or the LRs. of the victims as the case may be to seek higher remedy wherever they are not satisfied with the compensation. Any increase shall be borne by the Licensee (theatre owner) exclusively.***

(Emphasis Supplied)

6. This Court is of the view that it would be fair and reasonable to assume the income of the deceased as Rs.10,000/- per month. Deducting 50% towards the personal expenses and applying the multiplier of 13, the loss of dependency is computed as Rs.7,80,000/-. Rs.1 lakh is awarded towards loss of love and affection and Rs.1 lakh towards loss of estate. Adding Rs.10,000/- towards funeral expenses and Rs.10,000/- towards transportation of dead body charges, the total compensation is computed as Rs.10,00,000/-. The rate of interest is

enhanced from 7.5% per annum to 9% per annum.

7. The MAC.APP. 242/2008 is allowed and the compensation is enhanced from Rs.3,42,000/- to Rs.10,00,000/- along with interest rate of 9% per annum from the date of petition. The MAC.APP. 182/2008 is dismissed.

8. The enhanced award amount be deposited by UPSRTC with the UCO Bank, Delhi High Court Branch by means of a cheque drawn in the name of UCO Bank A/c R. K. Sachdeva within four weeks from today.

9. List for disbursement of the award amount to the respondents on 06th February, 2017.

10. Copy of this judgement be given *dasti* to learned counsels for the parties.

DECEMBER 23, 2016

rsk

J.R. MIDHA, J.