

21

\*

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

+ **FAO.No.193/2003**

%

Date of decision: 10<sup>th</sup> November, 2009

YUSUF ALI ..... Appellant  
Through : Mr. S.N. Parashar, Adv.

versus

KALU LAL ..... Respondent  
Through : Mr. S.L. Gupta,  
Ms. Neerja Sachdeva and  
Mr. Ram Ashray, Advs.  
for R-3.

**CORAM :-**

**THE HON'BLE MR. JUSTICE J.R. MIDHA**

- |    |   |            |
|----|---|------------|
| 1. | Whether Reporters of Local papers may be allowed to see the Judgment? | <b>YES</b> |
| 2. | To be referred to the Reporter or not?                                | <b>YES</b> |
| 3. | Whether the judgment should be reported in the Digest?                | <b>YES</b> |

**JUDGMENT (Oral)**

1. The appellants have challenged the award of the learned Tribunal whereby compensation of Rs.3,73,000/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

2. The accident dated 20<sup>th</sup> April, 2001 resulted in the death of Mustafa. The deceased was survived by his widow, one son, one daughter and parents who filed the claim petition before the learned Tribunal.

3. The deceased was aged 32 years at the time of the accident and was working as Supervisor earning Rs.4,500/- per month.

However, in the absence of sufficient proof of income, the learned

Tribunal took the minimum wages of Rs.2,597/-, deducted 1/3<sup>rd</sup> towards the personal expenses of the deceased and applied the multiplier of 17 to compute the loss of dependency at Rs.3,50,744/-, rounded off to Rs.3,51,000/-. The learned Tribunal awarded Rs.2,000/- towards the funeral expenses and Rs.20,000/- towards non-pecuniary damages. The total compensation awarded is Rs.3,73,000/-.

4. The learned counsel for the appellants has urged following grounds at the time of hearing of this appeal:-

- (i) Deduction towards the personal expenses of the deceased be reduced from 1/3<sup>rd</sup> to 1/4<sup>th</sup>.
- (ii) The increase in minimum wages due to inflation and increase in price index be taken into consideration.
- (iii) The non-pecuniary damages awarded by the learned Tribunal be enhanced.

5. It is well settled by the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) Scale 129** that the personal expenses of the deceased have to be taken to be 1/4<sup>th</sup> where the deceased has left behind 4 to 6 dependents. In the present case, the deceased has left behind five dependents. Following the aforesaid judgment of the Hon'ble Supreme Court, the personal expenses of the deceased are reduced from 1/3<sup>rd</sup> to 1/4<sup>th</sup>.

6. The learned Tribunal has not taken increase in minimum wages due to inflation and rise in price index. It has been held by this Court in the cases of **Kanwar Devi vs. Bansal Roadways,**

**2008 ACJ 2182, National Insurance Company Limited vs. Renu Devi III (2008) ACC 134 and UPSRTC vs. Munni Devi, MAC.APP.No.310/2007** decided on 28.07.2008 that the Court should take judicial notice of increase in minimum wages to meet the increase in price index and inflation rate. The Court has taken the view that the minimum wages get doubled over the period of 10 years and increase in minimum wages is not akin to future prospects and the income should be computed by taking the average of minimum wages and its double.

7. Following the aforesaid judgments, the income of the deceased is taken to be Rs.4,566/-  $[(Rs.3,044 + Rs.6,088)/2]$ . The loss of dependency is computed to be Rs.6,98,598/-  $(Rs.4,566 \times 12 \times 17 \times 3/4)$ .

8. With respect to non-pecuniary damages, the learned Tribunal has awarded Rs.20,000/-. The accident is dated 20<sup>th</sup> April, 2001. Considering the date of the accident, the award of Rs.20,000/- for non-pecuniary damages is fair and reasonable and does not call for any interference.

9. The appeal is allowed and the award amount is enhanced from Rs.3,73,000/- to Rs.7,20,598/-  $(Rs.6,98,598 + Rs.20,000 + Rs.2,000)$ .

10. The learned Tribunal has awarded interest @ 8% per annum which is not disturbed on the original award amount of Rs.3,73,000/-. However, on the enhanced award amount, the rate of interest shall be @ 7.5% per annum from the date of filing of the petition till realization.

11. The enhanced award amount along with interest be deposited by respondent No.3 by means of a cheque drawn in the name of with UCO Bank, Delhi High Court Branch A/c Noor Nahar within 45 days.

12. The order with respect to disbursement of the award amount shall be passed on the next date of hearing after examining the appellants who are directed to remain present in Court on the next date of hearing.

13. List the appeal on 22<sup>nd</sup> December, 2009.

14. Copy of this order be given 'Dasti' to learned counsel for both the parties under signature of Court Master.

**NOVEMBER 10, 2009**  
mk

**J.R. MIDHA, J**