

Savitri and ors Vs Mohan Singh and ors.

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Court : Delhi

Decided On : Oct-20-2010

Judge : Mr. J.R.Midha, J.

Appeal No. : MAC.APP.No.491/2007

Appellant : Savitri and ors

Respondent : Mohan Singh and ors.

Advocate for Def. : Mr. Kanwal Choudhary, Adv.

Advocate for Pet/Ap. : Mr. Vinod Sharma, Adv.

Judgement :

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

(Oral)

1. The appellants have challenged the award of the learned Tribunal whereby compensation of Rs.3,43,680/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

2. The accident dated 27th April, 2005 resulted in the death of Dayanand. The deceased was survived by his widow and six children who filed the claim petition before the learned Tribunal.

3. The deceased was aged 45 years at the time of the accident and was owner cum driver of a light goods vehicle. It was claimed that the deceased was earning Rs.8,000/- to Rs.10,000/- per month. However, in the absence of sufficient proof of income, the learned Tribunal took the minimum wages of RS.3,045/- per month, deducted 1/3rd towards the personal expenses of the deceased and applied the multiplier of 13 to compute the loss of dependency at Rs.3,16,680/-. Rs.2,000/- was awarded for funeral expenses and Rs.,25,000/- towards mental pain and agony suffered by the appellants. The total compensation awarded is Rs.3,43,680/-.

4. The learned counsel for the appellants has urged the following grounds at the time of hearing of this appeal:- (i) The deceased was a skilled driver and, therefore, the minimum wages of a skilled worker be taken into consideration.

(ii) The increase in minimum wages due to inflation and rise in price index be taken into consideration.

(iii) The personal expenses be reduced from 1/3rd to 1/5th.

(iv) The multiplier be enhanced from 13 to 14.

(v) The rate of interest be enhanced from 6% per annum to 7.5% per annum.

(vi) The compensation be awarded for loss of consortium and loss of estate.

5. The deceased was a skilled driver and, therefore, the minimum wages for skilled worker should have been taken into consideration. The minimum wages for a skilled worker on the date of the accident was Rs.3,210/- per month and, therefore, the income of the deceased is enhanced from Rs.3,045/- per month to Rs.3,210/- per month.

6. It is well settled by catena of judgments of this Court in the MAC.APP.No.491/2007 Page 2 of 7 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, 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. This 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.

7. Following the aforesaid judgments, the income of the deceased for computation of compensation is taken to be Rs.4,815/- $[(Rs.3,210 + Rs.6,420)/2]$.

8. The deceased has left behind seven dependants. As per the recent judgment of the Hon'ble Supreme Court in the case of Sarla Verma v. Delhi Transport Corporation, 2009 (6) Scale 129, the appropriate deduction where the deceased has left behind seven dependants is 1/5th and, therefore, the personal expenses of the deceased are reduced from 1/3rd to 1/5th.

9. The learned Tribunal has applied the multiplier of 13. However, the appropriate multiplier at the age of 45 years following the judgment of the Hon'ble Supreme Court in the case of Sarla Verma (supra) is 14. The multiplier is, therefore, enhanced from 13 to 14.

10. The learned Tribunal has not awarded any compensation for loss of consortium and loss of estate. Rs.10,000/- is awarded for loss of consortium and Rs.10,000/- towards loss of estate.

11. Taking the income of the deceased to be Rs.4,815/-, deducting 1/5th towards personal expenses, applying the multiplier of 14, adding Rs.2,000/- towards funeral expenses, Rs.25,000/- towards mental pain and agony, Rs.10,000/- towards loss of consortium and Rs.10,000/- towards loss of estate, the total compensation is computed to be Rs.6,94,136/- $[(Rs.4,815 \times 12 \times 14 \times 4/5) + Rs.2,000 + Rs.25,000 + Rs.10,000 + Rs.10,000]$.

12. The appeal is allowed and the award amount is enhanced from Rs.3,43,680/- to Rs.6,94,136/-. The learned Tribunal has awarded interest @6% per annum. Following the judgment of the Hon'ble Supreme Court in the case of Dharampal v.

UP State Road Transport Corporation, III 2008 ACC (1) SC, the rate of interest is enhanced from 6% per annum to 7.5% per annum from the date of filing of the petition till realization.

13. The enhanced award amount along with interest be deposited by respondent No.3 with UCO Bank, Delhi High Court Branch A/c Savitri by means of a cheque through Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400) within 30 days.

14. Upon the aforesaid amount being deposited, the UCO Bank is directed keep a sum of Rs.2,75,000/- in fixed deposit in the following manner:-

(i) Fixed deposit for Rs.25,000 in the name of appellant No.1 for a period of six months.

(ii) Fixed deposit for Rs.25,000 in the name of appellant No.1 for a period of one year.

(iii) Fixed deposit for Rs.25,000 in the name of appellant No.1 for a period of one and a half years.

(iv) Fixed deposit for Rs.25,000 in the name of appellant No.6 till he attains the age of 18 years.

(v) Fixed deposit for Rs.25,000 in the name of appellant No.6 till he attains the age of 19 years.

(vi) Fixed deposit for Rs.25,000 in the name of appellant No.6 till he attains the age of 20 years.

(vii) Fixed deposit for Rs.25,000 in the name of appellant No.6 till he attains the age of 21 years.

(viii) Fixed deposit for Rs.25,000 in the name of appellant No.7 till he attains the age of 18 years.

- (ix) Fixed deposit for Rs.25,000 in the name of appellant No.7 till he attains the age of 19 years.
- (x) Fixed deposit for Rs.25,000 in the name of appellant No.7 till he attains the age of 20 years.
- (xi) Fixed deposit for Rs.25,000 in the name of appellant No.7 till he attains the age of 21 years.
15. The remaining amount be released to appellants No.1 to 5 in equal proportion by transferring the said amount to their respective Saving Bank Accounts.
16. The interest on all the aforesaid fixed deposits shall be paid monthly by automatic credit of interest in the Savings Account of the appellant No.1.
17. Withdrawal from the aforesaid account shall be permitted to appellant No.1 after due verification and the Bank shall issue photo Identity Card to the appellants to facilitate identity.
18. No cheque book be issued to appellant No.1 without the permission of this Court.
19. The original fixed deposit receipts shall be retained by the Bank in the safe custody. However, the original Pass Books shall be given to the appellants along with the photocopy of the FDRs.
20. The original fixed deposit receipts shall be handed over to the appellants at the end of the fixed deposit period and the maturity amount be paid by transferring the same to the Saving Bank Account of the appellants.
21. No loan, advance or withdrawal shall be allowed on the said fixed deposit receipts without the permission of this Court.
22. Half yearly statement of account be filed by the Bank in this Court.
23. On the request of the appellants, the Bank shall transfer the Savings Account to any other branch of UCO Bank according to their convenience.

24. The appellants shall furnish all the relevant documents for opening of the Saving Bank Accounts and Fixed Deposit Accounts to Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi.

25. Copy of the order be given dasti to counsel for both the parties.

26. Copy of this order be also sent to Mr. M.M. Tandon, Member- Retail Team, UCO Bank Zonal, Parliament Street, New Delhi through the UCO Bank, High Court Branch.

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