
(2010) 01 DEL CK 0326

Delhi High Court

Case No: MAC. APP. No. 511 of 2009

Kiran Devi and Others

APPELLANT

Vs

Surjeet Yadav and Others

RESPONDENT

Date of Decision: Jan. 18, 2010

Hon'ble Judges: J.R. Midha, J

Bench: Single Bench

Advocate: O.P. Mannie, for the Appellant; Rajdipa Behura and Jeet Pathak for R-3, for the Respondent

Judgement

J.R. Midha, J.

The appellants have challenged the award of the learned Tribunal whereby compensation of Rs. 5,32,000/- has been awarded to them. The appellants seek enhancement of the award amount.

2. The accident dated 7th February, 2008 resulted in the death of Lochan Singh. The deceased was survived by his widow, two sons and two daughters who filed the claim petition before the Claims Tribunal.

3. The deceased was aged 44 years and was employed with Delhi Floor Mills Ltd. at the time of the accident earning Rs. 6,000/- per month. However, in the absence of documentary evidence of income, the learned Tribunal took the minimum wages of Rs. 4,100/- per month, deducted 1/4th towards personal expenses and applied the multiplier of 14 to compute the loss of dependency at Rs. 5,16,600/-. Rs. 10,000/- has been awarded towards loss of consortium and Rs. 5,000/- towards loss of estate. The total compensation awarded is Rs. 5,32,000/-.

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

(i) The increase in minimum wages due to inflation and rise in price index be taken into consideration for computing loss of dependency.

(ii) The compensation be awarded for loss of love and affection and funeral expenses.

5. It is well settled by catena of judgments of this Court that the Court should take judicial notice of increase in minimum wages to meet the increase in price index and inflation rate. In the case of [Kanwar Devi and Others Vs. Bansal Roadways and Others](#), this Court took judicial notice of the increase of minimum wages to meet the 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. In the case of [National Insurance Company Ltd. Vs. Renu Devi and Others](#), this Court took the judicial notice of the fact that the minimum wages get almost doubled over the period of 10 years. In the case of UPSRTC v. Munni Devi MAC. APP. No. 310/2007 decided on 28.07 2008, this Court followed the aforesaid judgments and observed that the wages under the Minimum Wages Act became almost more than double within a span of 10 years period.

6. Following the aforesaid judgments, the income of the deceased for computation of compensation is taken to be Rs. 6,150/- [(Rs. 4,100 + Rs. 8,200)/2]. Taking the income of the deceased to be Rs. 6,150/-, deducting $\frac{1}{4}^{\text{th}}$ towards personal expenses and applying the multiplier of 14, the loss of dependency is computed to be Rs. 7,74,900/- (Rs. 6,150 x 12 x $\frac{3}{4}$ x 14).

7. The learned Tribunal has not awarded any compensation for loss of love and affection and funeral expenses. Rs. 10,000/- is, awarded for loss of love and affection and Rs. 10,000/- is awarded for funeral expenses.

8. The appellants are entitled to total compensation of Rs. 8,09,900/- (Rs. 7,74,900 + Rs. 10,000 + Rs. 5,000 + Rs. 10,000 + Rs. 10,000).

9. The appeal is allowed and the award amount is enhanced from Rs. 5,32,000/- to Rs. 8,09,900/- along with interest @7.5% per annum from the date of filing of the petition till realization.

10. The enhanced award amount along with interest be deposited by respondent No. 3 with UCO Bank, Delhi High Court Branch A/c Kiran Devi 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.

11. Upon the enhanced award amount being deposited, UCO Bank is directed to keep a sum of Rs. 2,50,000/- in fixed deposit in the name of appellant No. 1 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. 1 for a period of two years.

(v) Fixed deposit for Rs. 25,000/- in the name of appellant No. 1 for a period of two and a half years.

(vi) Fixed deposit for Rs. 25,000/- in the name of appellant No. 1 for a period of three years.

(vii) Fixed deposit for Rs. 25,000/- in the name of appellant No. 1 for a period of three and a half years.

(viii) Fixed deposit for Rs. 25,000/- in the name of appellant No. 1 for a period of four years.

(ix) Fixed deposit for Rs. 25,000/- in the name of appellant No. 1 for a period of four and a half years.

(x) Fixed deposit for Rs. 25,000/- in the name of appellant No. 1 for a period of five years. 12. The remaining amount be released to appellant No. 1 by transferring the same to her Saving Bank Account.

13. The interest on the aforesaid fixed deposits shall be paid monthly by automatic credit of interest in the Savings Account of appellant No. 1.

14. Withdrawal from the aforesaid accounts shall be permitted to appellant No. 1 after due verification and the Bank shall issue photo Identity Card to appellant No. 1 to facilitate identity.

15. No cheque book be issued to appellant No. 1 without the permission of this Court.

16. The original fixed deposit receipts shall be retained by the Bank in the safe custody. However, the original Pass Book shall be given to appellant No. 1 along with the photocopy of the FDRs.

17. The original fixed deposit receipts shall be handed over to appellant No. 1 on the expiry of the period of the FDRs.

18. No loan, advance or withdrawal shall be allowed on the said fixed deposit receipts without the permission of this Court.

19. Half yearly statement of account be filed by the Bank in this Court.

20. On the request of appellant No. 1, the Bank shall transfer the Savings Account to any other branch of UCO Bank according to the convenience of appellant No. 1.

21. Appellant No. 1 shall furnish all the relevant documents for opening of the Saving Bank Account and Fixed Deposit Account to Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi.
22. The learned Counsel for the appellant submits that out of Rs. 5,32,000/- awarded by the learned Tribunal, Rs. 66,247/- has been kept in fixed deposit in the name of Ravi Kumar with cumulative interest, Rs. 66,247/- in the name of Baby Kumari with cumulative interest, Rs. 66,247/- in the name of Sagar with cumulative interest and Rs. 66,247/- in the name of Bulbul with cumulative interest with Union Bank of India, Pitampura Branch. The learned Counsel further submits that Rs. 2,21,240/- has been kept in fixed deposit in the name of appellant No. 1 for a period of seven years vide four fixed deposits as per the details given hereunder:
- (i) Fixed deposit receipt No. 543205 dated 17th August, 2009 for Rs. 50,000/-.
 - (ii) Fixed deposit receipt No. 543206 dated 17th August, 2009 for Rs. 50,000/-.
 - (iii) Fixed deposit receipt No. 543207 dated 17th August, 2009 for Rs. 50,000/-.
 - (iv) Fixed deposit receipt No. 543208 dated 17th August, 2009 for Rs. 50,000/-.
 - (v) Fixed deposit receipt No. 543209 dated 17th August, 2009 for Rs. 21,250/-.
23. The learned Counsel further submits that as per the award of the learned Tribunal, appellant No. 1 was entitled to withdraw interest on the said FDRs but the said FDRs have been issued with cumulative interest and, therefore, the appellant is not getting any interest. The Union Bank of India, Pitampura Branch is directed to pay monthly interest in respect of the aforesaid five FDRs to appellant No. 1 - Kiran Devi and the said monthly interest be credited directly in the Saving Bank of Account of appellant No. 1 - Kiran Devi with UCO Bank.
24. Copy of the order be given dasti to counsel for both the parties under signature of the Court Master.
25. Copy of this order be also sent to Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400) through the UCO Bank, High Court Branch under the signature of Court Master.
26. The learned Counsel for the appellant shall deliver copy of this order to Union Bank, of India. The learned Counsel for the appellant shall also communicate the account number of the appellant with UCO Bank to Union Bank of India, Pitampura Branch to facilitate Union Bank of India to automatically and directly credit the interest in the account of appellant No. 1. Copy of this order be also sent directly to Union Bank of India, Pitampura Branch for conversion of the aforesaid FDRs for payment of the monthly interest.
27. The Union Bank of India shall submit the compliance report of this order to this Court on the next date of hearing.

28. List on 4th March, 2010.