

MADHU SHARMA AND ORS ..... Appellants  
Through : Mr. Madhurendra Kumar, Adv.

versus

RAM AVADH YADAV AND ORS ..... Respondents  
Through : Mr. R.N. Sharma, Adv. for R-3.

**CORAM :-  
THE HON'BLE MR. JUSTICE J.R. MIDHA**

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| 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.6,48,667/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

2. The accident dated 27<sup>th</sup> June, 2006 resulted in the death of Parveen Kumar Sharma. The deceased was survived by his widow, one daughter and two sons who filed the claim petition before the learned Tribunal. The deceased was also survived by his father who was made respondent in the claim petition.

3. The deceased was aged 35 years at the time of the

accident and was self-employed earning Rs.1,00,000/- per annum. The learned Tribunal deducted 1/3<sup>rd</sup> towards the personal expenses and applied the multiplier of 13 to compute the loss of dependency at Rs.8,66,667/-. Rs.15,000/- has been awarded towards loss of estate, funeral expenses and transportation expenses of the dead body, Rs.15,000/- towards loss of love and affection, Rs.10,000/- towards loss of consortium and Rs.20,000/- towards medical expenses. The learned Tribunal deducted 30% of the amount towards contributory negligence of the deceased. The total compensation awarded is Rs.6,48,667/-.

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

(i) The finding of contributory negligence be set aside.

(ii) The multiplier be enhanced from 13 to 16.

(iii) The personal expenses of the deceased be reduced from 1/3<sup>rd</sup> to 1/4<sup>th</sup>.

5. The deceased was travelling in a Maruti Car which was hit by the offending truck. There was head-on-collision. The site plan was not produced before the Claims Tribunal and, therefore, the learned Tribunal assumed the negligence of the deceased to be 30%. Vide order dated 7<sup>th</sup> October, 2009, the Investigating Officer of PS Secundarabad, District Bulandshehr was directed to produce the site plan and the statement of the eye-witnesses in pursuance to which Sub-

Inspector, Rajesh Singh appeared before this Court on 8<sup>th</sup> December, 2009 and produced the entire record of the criminal case including the site plan. The statement of Sub-Inspector, Rajesh Singh was recorded before this Court and the certified copy of the entire record of the criminal case including site plan was taken on record. The site plan clearly shows that the accident occurred on G.T. Road and the Maruti car was on the extreme left side of the road and the truck came on the wrong side and hit the Maruti car. The accident in question clearly occurred due to the rash and negligent driving of the offending truck. The contrary finding of contributory negligence of the learned Tribunal is set aside and it is held that the accident occurred due to the sole rash and negligent driving of the offending truck.

6. The deceased was aged 35 years at the time of the accident and has left behind five legal representatives. Following the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) Scale 129**, the multiplier is enhanced from 13 to 16 and the personal expenses of the deceased are reduced from 1/3<sup>rd</sup> to 1/4<sup>th</sup>. Taking the income of the deceased to be Rs.1,00,000/- per annum, deducting 1/4<sup>th</sup> towards the personal expenses and applying the multiplier of 16, the loss of dependency is computed to be Rs.12,00,000/- (Rs.1,00,000 x 3/4 x 16). Adding Rs.15,000/- towards loss of estate, funeral expenses and transportation expenses of the

dead body, Rs.15,000/- towards loss of love and affection, Rs.10,000/- towards loss of consortium and Rs.20,000/- towards medical expenses, the total compensation is computed to be Rs.12,60,000/- (Rs.12,00,000 + Rs.15,000 + Rs.15,000 + Rs.10,000 + Rs.20,000).

7. The appeal is allowed and the award amount is enhanced from Rs.6,48,667/- to Rs.12,60,000/- along with interest @7.5% per annum from the date of filing of the petition till realization.

8. The enhanced award amount along with interest be deposited by Oriental Insurance Co. Ltd. with UCO Bank, Delhi High Court Branch A/c Madhu Sharma 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.

9. Upon the aforesaid deposit being made, the UCO Bank is directed to keep the said amount in fixed deposit till the order of disbursement is passed after examining the claimants.

10. List for appearance of the claimants on 7<sup>th</sup> April, 2010.

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

**J.R. MIDHA, J**

**FEBRUARY 01, 2010**

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