

(2010) 02 DEL CK 0269

In the Delhi High Court

Case No : F.A.O. No's. 323 and 325 of 2001

Abhishek Kalia and Others

APPELLANT

Vs

V. Urmila Tomar and Others

RESPONDENT

Date of Decision : 04-02-2010

Acts Referred:

Citation : (2012) ACJ 823

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

Bench : Single Bench

Advocate : Navneet Goyal and Mr. Varun Kumar, for the Appellant; D.K. Sharma, for the Respondent

Final Decision : Allowed

Judgement

J.R. Midha, J.—The appellants have challenged the award of the learned Tribunal whereby compensation of Rs. 5,10,120 has been

awarded in respect of the death of Usha Kalia and Rs. 5,70,132 has been awarded in respect of the death of Krishan Avtar Kalia. The appellants

seek enhancement of the award amount. The accident dated 19.3.1989 resulted in the death of Usha Kalia and her husband, Krishan Avtar Kalia.

The deceased were survived by their son and daughter who filed two separate claim petitions before the learned Tribunal. The learned Tribunal

passed a common award in respect of both the claim petitions. The appellants were also injured in the same accident and they filed two separate

claim applications for compensation of injuries but the award in respect of compensation for their injuries is not under challenge. The appellants are

seeking enhancement of compensation in respect of their parents.

F.A.O. No. 323 of 2001 relating to the death of Usha Kalia

2. The deceased, Usha Kalia, was aged 37 years at the time of the accident and was working with New Bank of India as an Accountant drawing

salary of Rs. 4,360.10 per month. The learned Tribunal added 50 per cent towards future prospects and took the income of the deceased to be

Rs. 6,540 per month, deducted half towards personal expenses and applied the multiplier of 13 to compute the loss of dependency at Rs.

5,10,120. No compensation has been awarded for loss of love and affection, loss to estate and funeral expenses.

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

(i) The multiplier be enhanced from 13 to 15.

(ii) Personal expenses of the deceased be reduced from 1/2 to 1/3rd.

(iii) Compensation be awarded for loss of love and affection, loss to estate and funeral expenses.

4. It is well settled by the judgment of the Hon'ble Supreme Court in the case of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation

and Another, , that the appropriate multiplier at the age of 37 years is 15 and the appropriate deduction where the deceased has left behind up to

three legal representatives is 1/3rd.

5. Following the aforesaid judgment, the multiplier is enhanced from 13 to 15 and the personal expenses of the deceased are reduced from 1/2 to

1/3rd. Rs. 10,000 is awarded towards loss of love and affection, Rs. 10,000 towards loss to estate and Rs. 5,000 towards funeral expenses.

6. Taking the income of the deceased to be Rs. 6,540 per month, deducting 1/3rd towards the personal expenses, applying the multiplier of 15,

adding Rs. 10,000 for loss of love and affection, Rs. 10,000 for loss to the estate and Rs. 5,000 towards funeral expenses, the total compensation

is computed to be Rs. 8,09,800 [(Rs. 6,540 $\times$ 2/3 $\times$ 12 $\times$ 15) + Rs. 10,000 + Rs. 10,000 + Rs. 5,000].

7. The appeal is allowed and the award amount is enhanced from Rs. 5,10,120 to Rs. 8,09,800. The learned Tribunal has awarded interest at the

rate of 9 per cent per annum which is not disturbed on the original award amount of Rs. 5,10,120. However, on the enhanced award amount, the

rate of interest shall be 7.5 per cent per annum from the date of filing of the petition till realization.

F.A.O. No. 325 of 2001 relating to the death of Krishan Avtar Kalia

8. The deceased, Krishan Avtar Kalia, was aged 40 years, 5 months and 18 days at the time of the accident and was working as officer with

Punjab and Sind Bank earning Rs. 5,279.70 per month. The learned Tribunal added 50 per cent towards future prospects and took the income of

the deceased to be Rs. 7,918.50 per month, deducted half towards personal expenses and applied the multiplier of 12 to compute the loss of

dependency at Rs. 5,70,132. No compensation has been awarded for loss of love and affection, loss to estate and funeral expenses.

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

(i) The multiplier be enhanced from 12 to 14.

(ii) Personal expenses of the deceased be reduced from 1/2 to 1/3rd.

(iii) Compensation be awarded for loss of love and affection, loss to estate and funeral expenses.

10. It is well settled by the judgment of the Hon'ble Supreme Court in the case of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation

and Another, , that the appropriate multiplier at the age of 40 years is 14 and the appropriate deduction where the deceased has left behind up to

three legal representatives is 1/3rd.

11. Following the aforesaid judgment, the multiplier is enhanced from 12 to 14 and the personal expenses of the deceased are reduced from 1/2 to

1/3rd. Rs. 10,000 is awarded towards loss of love and affection, Rs. 10,000 towards loss to estate and Rs. 5,000 towards funeral expenses.

12. Taking the income of the deceased to be Rs. 7,918.50 per month, deducting 1/3rd towards personal expenses, applying the multiplier of 14,

adding Rs. 10,000 for loss of love and affection, Rs. 10,000 for loss to the estate and Rs. 5,000 towards funeral expenses, the total compensation

is computed to be Rs. 9,11,872. The appeal is allowed and the award amount is enhanced from Rs. 5,70,132 to Rs. 9,11,872. The learned

Tribunal has awarded interest at the rate of 9 per cent per annum which is not disturbed on the original award amount of Rs. 5,70,132. However,

on the enhanced award amount, the rate of interest shall be 7.5 per cent per annum from the date of filing of the petition till realization.