(2012) 03 DEL CK 0217

In the Delhi High Court

Case No : MAC App. 553 of 2006

Anjana Pujara and Others APPELLANT

Vs

Bharat Co-Operative Society Ltd. and Another RESPONDENT

Date of Decision : 30-03-2012

Acts Referred:

Citation : (2012) 03 DEL CK 0217

Hon'ble Judges : G.P. Mittal, J

Bench : Single Bench

Advocate : M.K. Tiwari, for the Appellant; V.C. Jha, for R-2, for the Respondent

Judgement

G.P. Mittal, J.—The Appeal is for enhancement of compensation of Rs. 4,54,000/- awarded for the death of Yashpal Pujara who died in a motor accident which occurred on 18.03.1998. In the absence of any Appeal by the owner or the Insurance Company, the finding on negligence has become final between the parties.

2. During enquiry before the Motor Accident Claims Tribunal (the Claims Tribunal) it was claimed that the deceased Yashpal Pujara was a Partner in Manoj Cable Industries. He had an income of Rs. 3500/- to Rs. 4,000/- per month from the said business. He was working as a Commission Agent for M/s. Unique Trading Company I-7/32, Sector 16, Rohini, Delhi since March, 1997 and had an income of Rs. 4500/- per month as a Commission Agent. The deceased was not an Income Tax Assessee, although, any income beyond Rs. 40,000/- per annum i.e. Rs. 3333/- per month was taxable.

3. The Appellant''s case that the deceased had an income from commission from Unique Trading Company was challenged on the ground that a loan of Rs. 1,79,000/- was given by the deceased to Unique Trading Company and in fact, the amount could have been paid by Unique Trading Company towards liability of interest. It was proved on record that the deceased''s children were studying in a public school in the year 1998 and a fee of over Rs. 3,000/- per quarter was

being paid for each of the two children.

4. Although, the deceased was not paying any income tax, the Claims Tribunal in the facts and circumstances assessed the deceased''s income to be Rs. 3500/- per month. In the absence of any Income Tax Return being filed and after taking all the circumstances into consideration, this was the best which the Claims Tribunal could have done. Since the deceased was not being assessed to Income Tax and in the absence of any cogent evidence in respect of the deceased''s income, I would accept the deceased''s income to be Rs. 3500/- per month as taken by the Claims Tribunal.

5. As per Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, the deceased''s mother would be taken as a dependent and therefore deduction towards the personal and living expenses would be one-fourth instead of one-third as taken by the Claims Tribunal. The appropriate multiplier would be ''15'' as against ''16'' adopted by the Claims Tribunal.

6. Thus, the loss of dependency following Sarla Verma (supra) would come to Rs. 4,72,500/- (3500/- x 3/4 x 12 x 15).

7. Considering that this accident took place in the year 1998, I would enhance a sum of Rs. 5,000/- awarded towards loss of Love and Affection to Rs. 15,000/-. I would further award a sum of Rs. 10,000/- towards Loss to Estate.

8. The overall compensation is recomputed as under:-

Sl. No.

Compensation under various heads

Awarded by this Court

1.

Loss of Dependency

Rs. 4,72,500/-

2.

Loss of Love & Affection

Rs. 15,000/-

3.

Loss to Estate

Rs. 10,000/-

4.

Loss of Consortium

Rs. 5,000/-

Total

Rs. 5,02,500/-

9. The overall compensation is thus enhanced from Rs. 4,54,000/- to Rs. 5,02,500/-.

10. It is urged that interest @5.5% per annum awarded by the Claims Tribunal was on the lower side. I would raise the same to @ 7.5% per annum from the date of filing of the petition till the date of payment in this regard.

11. The shortfall in the compensation payable shall be made up and deposited with the Registrar General of this Court within six weeks.

12. Since this accident occurred almost 14 years back, the enhanced amount along with interest shall be released in favour of the first Appellant immediately on deposit. The Appeal is allowed in above terms.

