
(2009) 03 DEL CK 0212
In the Delhi High Court
Case No : MAC. APP. 509 of 2008

Asha Devi and Others

APPELLANT

Vs

Jitender Sharma and Others

RESPONDENT

Date of Decision : 06-03-2009

Acts Referred:

Citation : (2009) 03 DEL CK 0212

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

Bench : Single Bench

Advocate : O.P. Mannie, for the Appellant; Mohan Babu Aggarwal, for R-3, for the Respondent

Final Decision : Allowed

Judgement

J.R. Midha, J.—Issue notice to respondent No. 3 only.

2. Mr. Mohan Babu Aggarwal, Advocate accepts notice on behalf of respondent No. 3.

3. With the consent of the parties, the matter is finally heard at admission stage.

4. The appellants have challenged the award of the Learned Tribunal whereby the compensation of Rs. 5,10,000/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

5. This case relates to the death of Manoj Kumar in a road accident involving truck bearing No. UP-14J-9233 on 24th September, 2005. The deceased was coming home on foot after buying atta for his family when he was hit by the offending truck near Pahalwan Market, Loni resulting in his death.

6. The deceased was survived by his parents aged 46 and 50 years who filed the claim petition before the Learned Tribunal. The deceased was aged 22 years at the time of the accident and was doing computer job earning Rs. 6,000/- per month. However, no documentary proof was produced before the Learned Tribunal and, therefore, the Learned Tribunal took the income of the deceased

according to the minimum wages at Rs. 3,589/-. The figure of minimum wages was rounded off as Rs. 4,000/- per month.

7. The learned Tribunal deducted 1/3rd towards the personal expenses of the deceased and the multiplier of 15 was applied considering the age of the parents to compute the loss of dependency at Rs. 4,18,000/-. Rs. 30,000/- has been awarded towards loss of estate, funeral expenses and transportation expenses of the dead body. The total compensation awarded is Rs. 5,10,000/-.

8. The appellants have challenged the impugned award on the following grounds:

(i) The Learned Tribunal did not consider the increase of minimum wages on account of cost neutralization, increase in cost of living and inflation.

(ii) No amount has been awarded towards loss of love and affection and loss of company to the appellants.

9. Learned Counsel for the appellant refers to and relies upon the judgments of Kanwar Devi v. Bansal Roadways 2008 ACJ 2182, Lekh Raj and Another Vs. Suram Singh and Others, and National Insurance Company Ltd. Vs. Renu Devi and Others, where the Court has taken the judicial notice of the increase in minimum wages. The Courts have taken the average of minimum wages and the double of it and computed the loss of income of the deceased. Following the aforesaid judgments, the income of the deceased is computed by taking the average of minimum wages of Rs. 3,589 per month and double of it, i.e., Rs. 7,178/- which comes to Rs. 5,385/- $[(3,589 + 7,178)/2]$ and after deducting 1/3rd towards personal expenses of the deceased and applying the multiplier of 15, loss of dependency of the appellants is computed at Rs. 6,46,200/- (Rs. $5,385 \times 2/3 \times 12 \times 15$).

10. The Learned Tribunal has not awarded any amount towards loss of love and affection and loss of company of the deceased to the appellants. The compensation computed on the basis of multiplier is the pecuniary damage payable to the appellants. The appellants are also entitled to non-pecuniary damages for loss of love and affection and company. These damages are conventional in nature and should be uniformly awarded. Following the recent judgments, I award Rs. 25,000/- towards loss of love and affection and company of the deceased to the appellants. The total compensation comes to Rs. 7,01,200/- (Rs. 6,46,200 + Rs. 30,000 + Rs. 25,000).

11. The appeal is, therefore, allowed. The award amount is enhanced from Rs. 5,10,000/- to Rs. 7,01,200/- on which the appellant shall be entitled to interest @ 7.5% per annum from the date of filing of the petition before the Learned Tribunal till the date of award.