

(1981) 11 DEL CK 0002

In the Delhi High Court

Case No : Leave Petition Application No. 200 of 1981

Avon Delux Transport Co.

APPELLANT

Vs

Sheelatha Selvamani and Others

RESPONDENT

Date of Decision : 12-11-1981

Acts Referred:

Citation : (1982) ACJ 379 : AIR 1983 Delhi 93 : (1984) 56 CompCas 91 : (1982) RLR 462

Hon'ble Judges : Rajinder Sachar, J; M.L. Jain, J

Bench : Division Bench

Advocate : R.M. Tufail and H.R. Khan, for the Appellant;

Judgement

M.L. Jaini, J.

(1) The first argument is that it was not proved that it was due to the rash and negligent act of the driver that the accident took place. The trial court had noted that Public Witness . 5 who was traveling on pillion of the scooter being driven by the deceased has given evidence that the bus belonging to the appellant came from the opposite side, took a sudden swerve and hit the scooter which resulted in the fatal death and injuries to this witness also. No evidence was led from the appellant's side and Therefore the Tribunal was justified in coming to the conclusion that it was due to rash and negligent driving of the bus which caused the accident.

(2) That next argument was that there was some life insurance amount received by the deceased's wife and, Therefore, this amount should be deducted from the compensation awarded. He refers to Jaikumar Chhagan Lal Patni and others v. Mar Jerome D. Souza and another, 1978 Acj 28 for this proposition. With respect we are unable to agree. It has been, more or less the consistent practice of the Punjab & Haryana and Delhi High Courts that the deduction on account of insurance received is not to be deducted, as the benefits are received by virtue of independent contract entered into with the deceased by the L.I.C. (see

Bhagwanti Devi and Others Vs. Ish Kumar and Others, and other judgments mentioned therein. Notwithstanding this, a sum of Rs. 2000.00 has been deducted in connection with life insurance. We cannot, Therefore, find that the appellant can have any grievance.

(3) The next argument was that deduction should also have been made on account of pension receivable by the deceased's wife. We may note that there is no such claim put forward in the petition because we find no such discussion by the Tribunal in its order. We also find that no such specific grievance has been made in the grounds of appeal before us. We, Therefore, cannot be asked to make a guess as to what amount was received on a account of pension. This is apart from the fact that in our view the amount of pension was received on account of services rendered by the employee and on the same grounds as the insurance amount was not to be deducted in assessing the compensation payable. In this connection it may also be noticed that the tribunal did not take into consideration the prospective increase in the income of the deceased and thereby the prospective increase in the amount of dependency. These things he did because according to him, this would set off some other amount which requires to be deducted. We cannot say that this view is an unreasonable one.

(4) The next argument is that the Tribunal granted interest from the date of the application. This relief is consistent with Section 110-CC of the Motor Vehicles Act, which empowers the Tribunal that it may in addition to the amount of compensation award simple interest from such date not earlier than the date of making the claim. This is what has been done and the rate of interest has been awarded at 6% p.a. which is very reasonable rate considering the present high rate of interest. No merit. Dismissed.