

(1984) 11 DEL CK 0051
In the Delhi High Court

Avon Deluxe Transport Co.

APPELLANT

Vs

Snehlatha Selvamani

RESPONDENT

Date of Decision : 12-11-1984

Acts Referred:

Motor Vehicles Act, 1939 — Section 110CC

Citation : (1984) 11 DEL CK 0051

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

Bench : Division Bench

Judgement

Rajinder Sachar, J.—The first arguments 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 not that P.W. 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 with resulted in the 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 the rash and negligent driving of the bus which caused the accident.

2. The next argument was that there was some life insurance amount received by the deceased's wife and, Therefore, this amount should be deducted form the compensation awarded. He refers to Jaikumar Chhaganlal Patni and Others Vs. Mary Jerome D'souza and Others, , for this proposition. With respects we are unable to agree. It has been more or less the consistent practice of Punjab and 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 an independent contract entered into with the deceased by the LIC (See Bhagwanti Devi and Others Vs. Ish Kumar and Others, and other judgments mentioned therein) Notwithstanding this, a sum of Rs. 2,000 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 person receivable by the deceased's wife. WE may note that there is not 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 account of pension. This is apart from the fact that, in our view, the amount of pension was received on account of the services rendered by the employees and on the same ground as the insurance amount was not 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 require 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 s. 110CC of the M.V.Act, 1939, 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% per annum which is a very reasonable rate considering the present high rate of interest.

5. No. merit Dismissed.