
(2003) 11 DEL CK 0118
In the Delhi High Court
Case No : F.A.O. No. 228 of 1989

Baldev Kaur and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 07-11-2003

Acts Referred:

Citation : (2006) ACJ 599

Hon'ble Judges : Pradeep Nandrajog, J

Bench : Single Bench

Advocate : Y.R. Sharma and O.P. Mannie, for the Appellant;

Final Decision : Allowed

Judgement

Pradeep Nandrajog, J.—Appellants are aggrieved by the quantum of compensation assessed by the M.A.C.T. vide its order dated 6.4.1989.

2. By the impugned award it has been held that on the intervening night of 137 14.2.1981 the deceased Sardar Singh who was traveling on a two-wheeler scooter died as a result of an accident occasioned by the rash and negligent driving of bus No. HYA 8128 belonging to respondent Nos. 1 and 2, driven by respondent No. 3.

3. In determining the compensation in the sum of Rs. 96,000, Tribunal held that keeping in view the fact that age of the deceased was 50 years, multiplier of 10 was appropriate. Deceased was self-employed, manufacturing machines on contract basis for different companies, it was held that since the deceased was not assessed to income tax, income would be less than the taxable limits and was taken at Rs. 1,200-1,300 per month. Since the income above Rs. 15,000 per annum was liable for tax in the year 1981. After deducting, what according to the Tribunal would have been spent by the deceased on himself, dependency of appellants was taken at Rs. 800 per month. In this manner, total compensation assessed was Rs. 96,000. Of the awarded amount, appellant No. 1 aged 47 years was granted Rs. 60,000 and the remaining sum of Rs. 36,000 was apportioned

amongst appellant Nos. 2 to 4 being the children of the deceased.

4. At the outset, I may note that Amarjeet Kaur, appellant No. 2, was married and was aged 27 years on the date of death of the deceased. Avtar Singh, appellant No. 3, who is the son of the deceased was aged 23 years and Gurdish Kaur, appellant No. 4, was aged 19 years.

5. Learned counsel for the appellants contends that in assessing the compensation, the learned Tribunal has ignored the following:

(a) The deceased was 50 years and the appellant No. 1 was 47 years. The multiplier of 10 was inadequate and logically unsound. In the judgment reported as Jyoti Kaul and Others Vs. State of M.P. and Another, , where the deceased was 50 years, the Supreme Court had applied a multiplier of 15.

(b) Prospects of future increase in the earnings was ignored.

(c) No amount has been awarded for loss of consortium to appellant No. 1 and loss of father to appellant Nos. 2 to 4 and further nothing has been awarded on account of pain and suffering of the deceased.

6. Indeed, the learned Tribunal has not considered the increase in the earnings of the deceased. In the teeth of the evidence that the deceased was not paying any income tax, the income assessed by the Claims Tribunal being below the taxable limit, i.e., Rs. 1,300 per month, in law cannot be faulted. However, further increase in income has been ignored. Further, to my mind the multiplier of 10 years appears to be on the lower side. Deceased was aged 50 years and could reasonably be expected to live a gainful life up to 65 years. He was self-employed, appellant No. 1, his widow aged 47 years, would have remained dependent on the deceased. Dependency of the children would have ceased on their settling down in life, in fact appellant No. 2 had already settled in life. Keeping the totality of circumstances a safe multiplier to be applied would be 12.

7. Coming to the income, it could reasonably be expected that over a period of 12 years the income of the deceased would have gone up 3 times. The mean average income would be Rs. 2,500 p.m. Considering that the appellant No. 2 was already married and was not dependent upon the deceased and the fact that appellant No. 3 who was aged 23 years would have ceased to be dependent on his father in another 3 to 4 years and the appellant No. 4 who was aged 19 years would have ceased to be dependent upon her father in another 6 to 7 years, it would be safe to assume that of the mean average income, 40 per cent would have been spent by the deceased on himself. This gives to us the dependency of the appellants at Rs. 1,500 per month. The compensation to the family on this account thus comes to Rs. $1,500 \times 12 \times 12 = \text{Rs. } 2,16,000$. Considering the social background of the deceased it would be fair and reasonable to assess damages on account of loss of consortium to appellant No. 1 and loss of company of father to the appellant Nos. 2 to 4 as well as compensation on account of pain and suffering of the deceased at Rs. 24,000. The total

compensation, Therefore, comes to Rs. 2,40,000. As noted above, a sum of Rs. 96,000 has already been assessed as compensation. By the present judgment the compensation gets enhanced by Rs. 1,44,000. Considering the age of appellant Nos. 2 to 4 it is directed that the enhanced compensation shall be apportioned as under:

(a) Appellant No. 1 Rs. 1,00,000

(b) Appellant No. 2 Rs. 10,000

(c) Appellant No. 3 Rs. 16,000

(d) Appellant No. 4 Rs. 18,000

The enhanced compensation shall be paid with 9 per cent simple interest per annum from the date of filing of the petition till the date of realisation.