

(2009) 02 DEL CK 0144
In the Delhi High Court
Case No : MAC App. No. 52 of 2009

Bedo Devi and Others

APPELLANT

Vs

Jagat Singh and Others

RESPONDENT

Date of Decision : 11-02-2009

Acts Referred:

Citation : (2010) ACJ 2249

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

Bench : Single Bench

Advocate : Manish Maini, for the Appellant; Amit Kumar Pandey, for R-3, for the Respondent

Judgement

J.R. Midha, J.

CM No. 1256/2009 (Delay)

1. For the reasons stated in the application, the delay in refiling of the appeal is condoned.

2. The application stands disposed of.

MAC. APP. No. 52/2009

1. Issue notice to respondent No. 3 only.

2. Mr. Amit Kumar Pandey, Advocate accepts notice on behalf of respondent No. 3.

3. With the consent of the parties, the appeal is heard

4. This case relates to the death of Mr. Charan Pal Singh aged about 55 years at the time of his death. The deceased left behind his wife, four children and his father.

5. By taking the salary of the deceased and deducting the 1/3rd towards personal expenses and applying the multiplier of 8, the Learned Tribunal has

awarded Rs. 13,77,152/- towards compensation for loss of dependency, Rs. 14,835/- towards medical expenses, Rs. 12,500/- for love and affection and loss of estate, Rs. 2,000/- for funeral expenses and Rs. 5,000/-towards loss of consortium, making total of Rs. 14,11,487/-.

6. The learned Counsel for the appellant submits that the compensation awarded for love and affection, loss of estate and loss of consortium is extremely low considering the recent judgments. Learned Counsel for the appellant further submits that the personal expenses of the deceased should have been taken at 1/5th instead of 1/3rd as the deceased left behind six legal representatives. Another ground of challenge is that the CCA (City Compensatory Allowance) of Rs. 300/- should not have been deducted from the income of the deceased for computing the compensation. Lastly, it is submitted that the future prospects of the deceased have not been taken into consideration.

7. Learned Counsel for respondent No. 3 submits that out of the six legal representatives of the deceased, all the four sons of the deceased were major and two of them were even married and, therefore, the deduction of 1/3rd is fair and reasonable.

8. I agree with the contention of learned Counsel for respondent No. 3 that deduction of 1/3rd taken by the Learned Tribunal is fair and reasonable.

9. With respect to the future prospects, it is noted that deceased was aged 55 years at the time of his death and, therefore, the Learned Tribunal was right in not taking the future prospects into consideration.

10. The deduction of CCA (City Compensatory Allowance) from the income of the deceased also do not appear to be unreasonable.

11. With respect to compensation for love and affection and loss of estate, the Tribunal has awarded Rs. 12,500/- which is on a lower side. The compensation of Rs. 5,000/- awarded for loss of consortium is also on a very lower side.

12. Learned Counsel for the appellant refers to the judgment in the case of United India Insurance Co. Limited v. Sulochana III (2007) ACC 50 (DB) whereby the High Court awarded Rs. 50,000/- towards loss of consortium and Rs. 25,000/- each to the mother and daughter towards love and affection.

13. I, therefore, hold that the appellants are entitled to Rs. 50,000/- towards love and affection and loss of estate and Rs. 50,000/- towards loss of consortium.

14. The award of the Learned Tribunal is modified by enhancing the compensation for love and affection and loss of estate from 12,500/- to Rs. 50,000/- and compensation for loss of consortium from Rs. 5,000/- to Rs. 50,000/-. The total compensation comes to Rs. 14,93,987/- on which the appellants are entitled to interest at the rate of 7% from the date of filing of this appeal till date of award. Since the appellants have delayed in filing of the appeal, they shall not be entitled to interest from the date of award of the

Learned Tribunal.

15. The enhanced amount be deposited by respondent No. 3 with the Learned Tribunal within one month and the same be released to the appellants.

16. The appeal stands disposed of.