**(2012) 07 DEL CK 0199**

**In the Delhi High Court**

**Case No :** MAC. APP. 186 of 2004

Bhagwati Devi Pathak and Others — APPELLANT

Vs

Airport Director and Others — RESPONDENT

**Date of Decision :** 05-07-2012

**Acts Referred:**

**Citation :** (2012) 07 DEL CK 0199

**Hon'ble Judges :** G.P. Mittal, J

**Bench :** Single Bench

**Advocate :** Peeyush Sharma, for the Appellant; A.K. Soni, Advocate for the Respondent No.3 Insurance Company, for the Respondent

**Final Decision :** Dismissed

## Judgement

G. P. Mittal, J.—The Appeal is for enhancement of compensation of Rs. 8,10,000/- awarded for the death of Bhawani Dutt Pathak, who died in a motor vehicle accident which occurred on 16.03.1995. During inquiry before the Motor Accident Claims Tribunal (the Claims Tribunal), it was claimed that the deceased was an ex serviceman; he owned one redline bus and two tempo which were financed by the Bank; he had an income of Rs. 32,000/- per month and after paying installments of the loan, the deceased had a net income of Rs. 5,000/- to 6,000/- per month.

2. On the basis of the evidence produced, the Claims Tribunal found that the accident was caused on account of rash and negligent driving of bus No.DL-1P-5648 by the Respondent No.2 Pawan Kumar. The Claims Tribunal assumed the deceased''s income to be Rs. 6,000/- per month, added 50% towards future prospects and applied a multiplier of 11 to compute the loss of dependency as Rs. 7,92,000/-. The Claims Tribunal further awarded a sum of Rs. 10,000/- towards the loss of consortium, loss of love and affection and loss of estate and a sum of Rs. 8,000/- towards last rites.

3. It is urged by the learned counsel for the Appellant that the deceased''s

 

income was bound to increase with the passage of time as the loan obtained in respect of the two vehicles would have been liquidated in a couple of years. It is submitted that the Claims Tribunal ought to have accepted the deceased''s income to be Rs. 10:31 AM 7/13/201232,000/- per month to compute the loss of dependency. It is stated that the deduction of 1/4th ought to have been made instead of 1/3rd as the number of dependents were four.

4. It is important to note that in the A.Y. 1994-95 when this accident took place, any income beyond Rs. 35,000/- per annum i.e. Rs. 3,000/- per month was taxable. Therefore, even if the deceased had net income beyond Rs. 35,000/-, he was expected to file an Income Tax Return. He was entitled to deduction towards repayment of the loan taken towards purchase of the vehicles. Unfortunately, no documentary evidence as to the quantum of loan and the installments paid per month was produced by the Appellants. In the Claim Petition, the age of the eldest son was mentioned as 26 years. He was thus not financially dependent on the deceased''s father.

5. Since the deceased was aged more than 52 years, the Appellants were not entitled to any addition towards future prospects. Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, . Thus, in awarding a compensation of Rs. 7,92,000/- on an annual income of Rs. 1,08,000/-, the Claims Tribunal was quite benevolent as any income beyond Rs. 35,000/- was taxable and admittedly the deceased was not paying any Income Tax.

6. The overall compensation of Rs. 8,10,000/- is not niggardly by any standard. The same is just, reasonable and adequate. The Appeal is devoid of any merit; the same is accordingly dismissed.