

(2012) 05 DEL CK 0438
In the Delhi High Court
Case No : Mac. App. 687 of 2010

Brijpal Singh Teotia and Another

APPELLANT

Vs

New India Assurance Co Ltd and Others

RESPONDENT

Date of Decision : 17-05-2012

Acts Referred:

Citation : (2012) 05 DEL CK 0438

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

Bench : Single Bench

Advocate : S.N. Parashar, for the Appellant; Kanwal Chaudhay, Advocate for R-1, for the Respondent

Final Decision : Allowed

Judgement

G.P. Mittal, J.—The Appeal is for enhancement of compensation of Rs. 4,29,168/- awarded by the Motor Accident Claims Tribunal (the Claims Tribunal) for the death of Arvind Teotia, who died in a motor accident which occurred on 03.06.2006. In the absence of any Appeal by the Owner and Insurer of the offending vehicle, the finding on negligence has become final between the parties.

2. It is urged by the learned counsel for the Appellants that the deceased was a final year student of Electrical and Electronics Engineering in BAMS College, Lucknow. Within one year of obtaining the degree, the deceased's classmate started earning Rs. 20,000/- per month. His income would have increased in future. It is urged that the compensation awarded is fully inadequate.

3. Admittedly, the deceased did not have any income on the date of the accident. Evidence was produced to show the deceased's potential income. Admittedly, the deceased was a final year student of Engineering. He would have started earning just within a year of his death.

4. It is well settled that in the case of a student pursuing a professional course, the Tribunal is to consider the potential income of the deceased after the completion of the course to award compensation towards the loss of dependency.

5. In the case of Haji Zainullah Khan (Dead) by Lrs. Vs. Nagar Mahapalika, Allahabad, , death of a young boy, aged 20 years took place in an accident which happened in the year 1972. The deceased was a student of B.Sc Ist year (Biology), a compensation of Rs. 1,46,900/- was increased and rounded off to Rs. 1,50,000/-.

6. In Ganga Devi & Ors. v. New India Assurance Co. Ltd. & Ors., MAC APP. 359/2008, decided by this Court on 23.11.2009, which related to the death of a student (studying medicine) who was doing internship and was to be awarded the MBBS degree in a short time, the Tribunal awarded a compensation of Rs. 9,35,352/- on the basis of the minimum wages of a Graduate. This Court observed that although the deceased was getting a stipend of Rs. 5,000/- per month at the time of his death due to the accident, he would have ultimately joined as a doctor at a salary ranging between Rs. 16,000/- per month to Rs. 25,000/- per month. Thus, the average monthly income of the deceased was taken as Rs. 18,000/- and after adding 50% towards future prospects, the compensation was enhanced to Rs. 21,36,000/-.

7. In Ramesh Chand Joshi v. New India Assurance Company MAC APP.212-213/2006 decided on 20.01.2010 this Court took the potential income of a BE (Bio-Technology) First year student of Delhi College of Engineer (DCE) Rs. 38,333/- per month.

8. No evidence was led by the Appellants as to the deceased's academic record. The deceased was not pursuing Engineering from any prestigious college and thus the Appellants would not be entitled to any addition on account of future prospects. Considering the evidence of PW-2, the potential income of the deceased can be taken to be Rs. 20,000/- per month.

9. It was proved on record that the deceased's father was 53 years. No evidence was led as to the age of the deceased's mother in spite of the direction given by the Claims Tribunal as noticed in Para 10 of the impugned judgment. In the circumstances, I would accept the age of the Second Appellant to be about 53 years. There has to be deduction of 50% towards the personal and living expenses in case of a bachelor. The appropriate multiplier on the age of 53 would be "11". There is liability of income tax of about Rs. 19,000/-. The loss of dependency thus comes to Rs. 12,15,500/- (20,000/- x 12 - 19,000/- (tax) x 1/2 x 11).

10. I further award a sum of Rs. 25,000/- towards loss of love and affection and Rs. 10,000/- each towards loss to estate and funeral expenses.

11. The overall compensation is thus enhanced from Rs. 4,29,168/- to Rs. 12,60,500/-.

12. The enhanced compensation of Rs. 8,31,332/- shall carry interest @ 7.5% per annum from the date of the filing of the Petition till its deposit. The Respondent No. 1 New India Assurance Company Limited is directed to deposit

the enhanced amount along with interest in the UCO Bank, Delhi High Court Branch within six weeks.

13. 70% of the enhanced amount along with proportionate interest shall be payable to the Second Appellant and 30% along with proportionate interest shall be payable to the First Appellant.

14. 60% of the enhanced compensation along with proportionate interest shall be held in fixed deposit for a period of two years, four years and six years in equal proportion. 40% of the enhanced compensation along with proportionate interest shall be released immediately on deposit. The Appeal is allowed in above terms.