
(1983) 09 DEL CK 0003

In the Delhi High Court

Case No : Letter Patent Appeal No. 75 of 1976

Delhi Transport Corporation

APPELLANT

Vs

Prem Devi Pandey etc.

RESPONDENT

Date of Decision : 01-09-1983

Acts Referred:

Citation : (1984) 6 DRJ 273

Hon'ble Judges : Prakash Narain, J;Charanjit Talwar, J

Bench : Division Bench

Advocate : C.L. Choudhry and M.L. Bhargav, for the Appellant;

Judgement

Charanjit Talwar, J.

(1) The Delhi Transport Corporation) which is the successor of Delhi Transport Undertaking, has filed this appeal under clause 10 of the Letters Patent seeking setting aside of the judgment passed by a learned Single Judge on 28th May, 1976, in F.A.O. No. 94 of 1973, whereby the quantum of damages awarded to the legal representatives of Shri RamPartap Pandey, by the Motor Accident Claims Tribunal, was increased from Rs. 22,717.00 to Rs. 95,000.00 .

(2) The facts are not disputed. Ram Partap Pandey died as a result of a motor vehicle accident on 10th November, 1967, at 5.15 P.M. on Prithvi Raj Road, New Delhi. The bus which was involved in the accident, belonged to the Delhi Transport Undertaking. It was being driven by Shri Dayal Singh. The parents, widow and five daughters of the. deceased filed an application u/s 110-A of the Motor Vehicles Act for an award of sum of rupees two lacs as compensation. The Tribunal, however, awarded a total sum of Rs. 22,717.00 as compensation to the petitioners. Dis-satisfied with the quantum of compensation the widow and the daughters filed an appeal in this court. As noticed above, the appeal Was allowed.

(3) Mr. C.L. Chaudhary, learned counsel for the appellant, urged that in the facts of this case the enhancement of compensation from Rs. 22,717.00 to Rs. 95,000.00 is unwarranted. To appreciate this contention a few findings of the

Tribunal may be noticed.

(4) The deceased was 42 years old at the time of accident. He was employed as a selection grade clerk and was getting a salary of Rs. 441.00 per month. He had also taken up a part-time job as an auditor with a co-operative society and was earning Rs. 35.00 per month from that source. The Tribunal held that his pocket expenses were Rs. 40.00 to Rs. 45.00 per month. It was found that he was making available sum of Rs. 400.00 per month for expenses on himself and his dependents consisting of his wife and five daughters. The Tribunal concluded that out of this sum only Rs. 300.00 were available to the widow and the five daughters. The Tribunal's view was that the deceased would normally have lived up to his retirement age of 58 years and thus for the 16 years he would have contributed in all Rs. 57,600.00 to the respondents herein. It further found that as the widow was getting a pension of Rs. 120.00 per month which she was to draw for 7 years after the death of her husband and thereafter was to be paid Rs. 60.00 per month for a further period of 9 years, the amount of pension, i.e. Rs. 20,000.00 for the first seven years and Rs. 6480.00 for the next nine years was liable to be deducted. Further, a deduction of Rs. 2010.00 was made on account of gratuity and Rs. 5655.00 on account of provident fund. The deceased was insured for Rs. 4000.00. He had Rs. 2000.00 in the Bank. These amounts were also held liable to be deducted from the aforesaid sum of compensation awarded. A sum of Rs. 150.00 was received by the widow as salary which was due to her husband for the month of November, 1967, and amount of Rs. 500.00 was paid to her by the Co-operative Society in which he was working as a part-time employee. These amounts were also excluded. In all Rs. 33,875.00 were thus deducted from Rs. 57,600.00. The total pecuniary loss worked out by the Tribunal came to Rs. 26,725.00. A further deduction on account of lump sum payment was made and the compensation actually awarded was Rs. 22,717.00.

(5) The reasoning of the Tribunal for arriving at the sum to be awarded and the manner as well as the calculations for deductions did not find favor with the learned Single Judge. After extensive analysis of the various decisions the learned Judge held (i) that in law no deductions for the insurance policy of the deceased, gratuity and provident fund benefits have to be taken into consideration while ascertaining the quantum of compensation to be granted to the legal representatives; (2) that the deceased would have lived up to the age of 62 years but for the accident and hence the loss of pecuniary benefits to the legal representatives was to be capitalised for 20 years and not for 16 years, (3) that the legal representatives were not to be treated as one single person; the pecuniary loss was to be calculated qua each of them, (4) that the pecuniary benefits to the widow and each of the daughters amounted to Rs. 15,000.00 each, (5) that the pecuniary benefits obtained by the widow amounted to more than the sum of Rs. 15,000.00. Therefore, her pecuniary gain was greater than the loss of pecuniary benefits. Thus, she was not entitled to get any compensation under the Act.

(6) For arriving at the amount of compensation the learned judge held that the amount of Rs. 35.00 per month which the deceased was earning from the part-time job was to be included in. his income. It was held that after deducting his pocket expenses a sum of Rs. 445.00 per month was available for being contributed to the family fund. This contribution was to be divided amongst the members which meant that each was receiving Rs. 68.00 per month. The pecuniary benefit was capitalised for 20 years for each of the daughters. As such, it was found that they were entitled to Rs. 15,000.00 each. However, it was observed that if the deceased had been living his pay and allowances would. have naturally increased. Correspondingly there should be an increase in the benefits to the legal representatives. The daughters were thus found to be entitled to Rs. 20,000.00 each. In view of the lump sum payment it was directed that the total compensation payable to each of the daughters ought to be reduced to Rs. 19,000.00 with future interest at the rate of 6 per cent per annum. The amount of Rs. 22,717.00 which had already been received by the respondents was directed to be adjusted. Consequently, the balance of Rs. 72,283.00 was awarded in addition to the sum previously awarded by the Tribunal.

(7) Mr. C.L. Chaudhary, learned counsel for the appellant, was unable to show any infirmity or illegality in the impugned judgment except for pointing out that two of the daughters of the deceased have since been married and, Therefore, the amount awarded to them was liable to be deducted. We find no force in this contention. The learned single Judge while enhancing the compensation had kept in view that the marriage expenses of the daughters of the deceased have to be met out of the compensation awarded.

(8) Accordingly the Letters Patent Appeal is dismissed but with no order as to costs.