
(1992) 03 DEL CK 0067

In the Delhi High Court

Case No : First Appeal No. 264 of 1981

Delhi Transport Corporation

APPELLANT

Vs

Radha and Others

RESPONDENT

Date of Decision : 10-03-1992

Acts Referred:

Citation : (1993) ACJ 276 : (1992) 47 DLT 284

Hon'ble Judges : J.K. Mehra, J

Bench : Single Bench

Advocate : Zubeda Begum, M.K. Michael and G. Prakash, for the Appellant;

Judgement

J. K. Mehra, J.

(1) This order will dispose of the appeal filed by Delhi Transport Corporation as well the cross-objections filed by the claimants. The facts of the case, briefly slated, are that the Dtc Bus No. Dhp 2018 came from Westend Colony side and took a turn on Rao Tula Ram Marg on 6.12.75 at about 10.45 a.m. and there at the turning hit the deceased who was travelling on a bicycle, as a result where of the deceased was thrown at some distance and received injuries including the head injury which later proved fatal. The case of the respondents before the Tribunal was that the bus was being driven at a very high speed, rashly and negligently by the driver one Shri Kultar Singh of the appellant. Strangely enough he has not been impleaded as a party to the appeal. Only possible Explanation appears to be that this gentleman has since gone abroad and is not traceable and this fact is revealed in the statement of Sardool Singh the Traffic Supervisor of the appellant which was recorded before the Tribunal. In any event, this infirmity need not stand in the way because no such objection has been taken by the respondents in their cross-objections also.

(2) I have perused the judgment and have also been taken through the evidence recorded before the Tribunal. I am in agreement with the Tribunal when it observes that in the absence of any cogent direct evidence, the circumstantial

evidence plays a role of great importance and the Tribunal has to rely upon the same. I do not find any force in the ground that because the criminal court had acquitted the driver, the civil court also should have acquitted him. In fact, if the criminal court convicts the driver such a suggestion could be attached considerable importance because the evidence required to convict a person of a criminal offence -must be such as would go to prove the. guilt of the offender beyond reasonable doubt while same standard of proof may not be called for while examining the case for assessing the civil liability. Apart from this no other argument has been advanced to sustain the challenge to the finding that the vehicle at the time of accident was being driven rashly and negligently.

(3) The next challenge in the appeal is to the quantum of compensation where the Counsel states that no accounts were produced nor any documentary evidence placed on record by the widow or brother-in-law of the deceased to corroborate their oral testimony that the deceased was earnings .Rs. 1000.00 per month. The appellant has further challenged the Tribunal's finding and the Counsel has asserted that even the income of Rs. 500.00 which as been accepted by the Tribunal is arbitrary and not based on any documentary evidence. On this point, I must refer to the cross-objections wherein heirs of the deceased have also challenged the findings, mainly on three counts-(1) that the income of Rs. 500.00 which has been accepted by the Tribunal is not based on any material or any legal evidence and is totally arbitrary ;(2) that the age of the deceased was 47 years at the time of the accident and a multiplier of 23 should have been applied taking the expectancy of life of the deceased up to 70 years; and (3) that the Tribunal should have awarded pendent life interest.

(4) Thus, so far as Rs. 500.00 per month being the income of the deceased at the time of the accident is concerned, it is the admitted case of both the parties that this figure is arbitrary. I also do not find any evidence whereupon such finding of the Tribunal can be based, particularly, in view of unrebutted evidence, namely, of widow and brother-in-law of the deceased, the Tribunal could do very little in the matter and had no basis to hold contrary to that. There is no evidence on record to show that proper accounts were being maintained by the deceased of his shop which have been with held by the widow. I, Therefore, set aside the findings of the trial Court on this point and hold that the Tribunal should have held the income of the deceased to be Rs. 1000.00 per month and providing there from a sum of Rs. 400.00 for the maintenance of the deceased himself and I would hold the contribution for the maintenance of the widow and children could be placed at Rs. 600.00 per month .This disposes of the appeal and of the grounds of challenge in the cross .-objections.

(5) Coming to the cross-objections, there are still other two points, i.e., the age of the deceased at the time of the accident and the multiplier factor and lastly, the interest.

(6) So far as the age of the deceased at the time of the accident is concerned ,I do not find any infirmity in the finding of the Tribunal which is based on medical

evidence, i.e., the deceased at the time of the accident was 50 years old. I have also not been taken through any material on record on the basis whereof expectancy of life of the deceased could be treated as 70 and not 60 as has been done by the learned Tribunal. Accordingly, the cross-objections in respect thereof are rejected, but in the light of my finding that the financial contribution to the respondents at the time of the accident by the deceased was Rs. 600.00, it has to be multiplied with 120 which will come to rs. 72,000.00. I accordingly modify the award of the learned M.A.C.T. and award to the cross-objectors a compensation of Rs. 72,000.00 in place of Rs. 36,000.00.

(7) On the ground relating to interest, I feel that the heirs of the deceased who have been deprived of the use of this money for such a long time are entitled to interest pendente lite also. Since the amount of Rs. 36,000.00 was deposited within the time stipulated by the Tribunal that amount will carry interest up to the date of the award from the date of the institution of the petition by the respondents/cross-objectors at the rate of 12% while on the balance of compensation amount of Rs. 36,000.00, the interest at the same rate will be paid from the date of institution of the petition till payment and I direct that the payment of the entire amount of compensation together with interest be made within 8 weeks from today.

(8) The appeal as well as the cross-objections stand disposed of in the above terms. No order as to costs.