
(1989) 07 DEL CK 0009
In the Delhi High Court

D.T.C. and Others

APPELLANT

Vs

Jai Rani and Others

RESPONDENT

Date of Decision : 10-07-1989

Acts Referred:

Citation : (1990) 1 ACC 488

Hon'ble Judges : M. Sharief-ud-din, J

Bench : Single Bench

Judgement

Malik Sharief-Ud-Din, J.—The appellant is aggrieved of an order dated 21 st of March 1979 passed by the Motor Accident Claims Tribunal awarding a sum of Rs. 1,00,000/- as compensation in favor of the contesting respondents. The Tribunal further allowed costs and interest at the rate of 3% per annum from the date of application till the date of award and at the rate of 6% per annum from the date of award till the date of final payment.

2. The claim arose consequent to an incident dated 12th of November 1970 when at about 10.50 a.m. one Arjun Dev Malik along with his wife Jai Rani and Ashwani Kumar, his minor son, met with an accident while traveling in a three-wheeler scooter DLR 9302. The accident was caused at the hands of a DTC bus No. DLP-10 which, at the time of the accident, was being driven recklessly as the driver of the bus was accelerating the speed with a view to overtake a truck. It was in this process of reckless driving that it swerved to the wrong side and hit the scooter, overturning toe three-wheeler. It was due to this that Arjun Dcv Malik deceased sustained fatal injuries and died. His wife Jai Rani also received extensive injuries.

3. The learned Counsel for the appellant very fairly submitted that she does not want to challenge the finding that the accident was the result of rash and negligent driving of the driver but according to her, the compensation of Rs. 1,00,000/- for which the award has been passed is exorbitant and may be reduced.

4. I may notice that the Tribunal has very fairly and satisfactorily, in my view, assessed the evidence. While trying to find out as to the amount of compensation which could reasonably and properly be allowed in favor of the dependents, the Tribunal on the basis of evidence found out that the monthly contribution of the deceased towards his dependents was about Rs. 800/-. This the Tribunal tried to divide by 12 and a multiple of 22 and found that in this manner a sum of Rs. 2,11,000/- was to be awarded. But on a further consideration in view of the case law a multiple of 15 was used and the amount was calculated at Rs. 1,44,000/-. Thereafter, the learned Presiding Officer went on deducting from this amount on account of income likely to accrue from the life insurance policy of the deceased and on certain other accounts thereby reducing the amount to Rs. 1,00,000/- which in the opinion of the Tribunal was the proper compensation in this case that would meet the ends of justice.

5. After going through the facts and circumstances of the case, taking into consideration the evidence in support of income of the deceased and the fact that his potential income would have increased had he lived, I am not in agreement with the learned Counsel for the appellant that the amount be reduced. Indeed, the compensation in such a case is awarded to provide a financial umbrella to the dependents of the deceased as nearly as possible in the same manner in which he would have helped the dependents had he survived. In the light of such and other considerations and on the facts and circumstances of this case, I am of the view that the compensation awarded is neither improper nor is it on a higher side. The facts of the case provide a complete justification for a compensation of Rs. 1,00,000/- awarded by the Tribunal.

6. I am, however, of the view that the Tribunal seems to have fallen into an error in allowing only 3% interest on the awarded amount from the date of application till the date of award. Mr. Kathuria submitted that even though there is no cross-appeal the court has ample powers to undo the injustice where injustice has actually occurred. I would, Therefore, allow interest at the rate of 6% per annum from the date of application till the date of its final realisation. The record, however, shows that the amounts has been deposited pursuant to the orders of this Court and a statement to this effect was made by Mr. S.C. Dhanda on 1st of August 1979. The interest as such shall not be payable on the amount from the date it was . deposited.

7. This connected appeal which arises out of the same incident and on the basis of the same facts is in respect of the portion of the award by which a sum of Rs. 2500/- was awarded to S m t. Jai Rani on account of injuries she had sustained in the very same incident. The learned Counsel for the appellant does not want to press this appeal after she heard the court observing that the amount is so meagre that it merits no interference. Having found that Smt. Jai Rani had sustained injuries in this incident the Tribunal was justified in awarding Rs. 2500/- as compensation to her. Both F. A.O.98/79 & 99/79 are dismissed.