

(2009) 02 DEL CK 0199

In the Delhi High Court

Case No : Mac. App. No. 457-59 of 2006

Gian Sharma and Others

APPELLANT

Vs

Satinder Kumar Ors.

RESPONDENT

Date of Decision : 11-02-2009

Acts Referred:

Citation : (2009) 02 DEL CK 0199

Hon'ble Judges : J.R. Midha, J

Bench : Single Bench

Advocate : O.P. Maini, for the Appellant; Rohit Sinha, for R - 1 and 2 and D.K. Sharma, for R - 3, for the Respondent

Final Decision : Allowed

Judgement

J.R. Midha, J.—The appellant has challenged the award of the Learned Tribunal dated 4th April, 2006 whereby the compensation of Rs. 8,53,000/- with 6% interest has been awarded. The appellants seek enhancement of the award.

2. On 19th January, 2005, the deceased was going on a motor cycle near Vaishali Tiraya when he was hit by the offending truck bearing No. UP-14Q-8924 resulting in fatal injuries and he died on the spot.

3. The deceased was aged 56 years at the time of his death and was working as Superintendent (Telecom) at IGI Airport, New Delhi drawing a salary of Rs. 23,620/- per month.

4. The deceased was survived by his wife, married daughter, and mother who filed the claim petition. The Learned Tribunal took the monthly income of the deceased at Rs. 16,000/- after deducting the permissible deductions and deducted 1/3rd towards his personal expenses and applied the multiplier of 6 to compute the compensation of Rs. 7,68,000/-. Rs. 25,000/- was awarded for loss of consortium; Rs. 50,000/- for loss of love and affection and mental agony; Rs. 10,000/- for funeral expenses. Total compensation awarded was Rs. 8,53,000/-.

5. The appellant has challenged the award on the following grounds:

(i) The future prospects have not been considered.

(ii) Multiplier of 8 should have been applied instead of 6.

(iii) The interest be enhanced from 6% to 7.5% and

(iv) Compensation for loss of consortium be enhanced from Rs. 25,000/- to Rs. 50,000/-

6. With respect to the future prospects, it has been recorded in para 17 of the award that no evidence was led to support that the deceased would have been promoted to higher rank in the remaining years of his service and, therefore, the Learned Tribunal has rightly not taken the future prospects into consideration.

7. The Learned Tribunal has applied the multiplier 6 considering the age of the deceased to be 56 years. Considering the recent judgments of the Hon'ble Apex Court, there is not infirmity in the multiplier taken by the Learned Tribunal.

8. With respect to the loss of consortium, learned Counsel refers to the judgment of Madra High Court in the case of United India Insurance Co. Ltd. v. Sulochana III (2007) ACC 50 (DB) where the Court has awarded Rs. 50,000/-towards loss of consortium.

9. The compensation for loss of consortium is non-pecuniary loss and, therefore, it should be uniformly followed. I, therefore, enhance the loss of consortium from Rs. 25,000/-to Rs. 50,000/-.

10. With respect to the interest on the award amount, the Apex Court has awarded the interest @ 7.5% in the case of Dharmpal v. U.P. State Road Transport Corporation III (2008) ACC 1 SC. Following the said judgment, the interest is enhanced from 6% to 7.5%.

11. The appeal is allowed. The award amount is enhanced from Rs. 8,53,000/- to Rs. 8,78,000/- with interest @ 7.5% from the date of petition till the realization. The additional amount enhanced and the interest thereon be deposited with the Learned Tribunal within 4 weeks and the same be released to appellt No. 1.

12. Copy of this judgment be given "Dasti" to learned Counsel for both the parties.