
(1989) 04 DEL CK 0029

In the Delhi High Court

Case No : First Appeal No. 223 of 1987

Gulshan Raj and Another

APPELLANT

Vs

Kishan Datt and Others

RESPONDENT

Date of Decision : 04-04-1989

Acts Referred:

Citation : (1989) ILR Delhi 175

Hon'ble Judges : M.K. Chawla, J

Bench : Single Bench

Advocate : Rajinder Arya, for the Appellant;

Judgement

M.K. Chawla, J.

(1) The challenge to the impugned Judgment is two-fold :-

(A) That the learned Tribunal has erred in applying the multiplier of 15 years only for determining the compensation payable to the appellants. Keeping in view the age and health of the deceased at the time of accident and the fact that both the parents i.e. appellants no. 1 and 2 at this age of 60 and 56 years respectively are still alive and are maintaining good health, Therefore, keeping in view the longevity of the family of deceased the Id. Tribunal ought to have adopted a multiplier of 30 years if not more

(B) That the learned Tribunal has erred in not awarding interest on the awarded amount. The appellants are entitled to claim interest at the rate of 18% per annum on the awarded amount from the date of accident.

While issuing show cause notice in the appeal. Wad, J. observed as under :-

"CONSIDERING the age of the claimants" which is now 58 and 60 the multiplier of 15 is the proper multiplier I find no infirmity in the compensation awarded. Notice to show cause be issued only on the limited question of payment of interest for 3-12-1987."

(2) Learned counsel for the respondents submitted that in this case, the petitioner has intentionally avoided to produce his evidence by seeking adjournments on one pretext or the other in this view of the matter, the petitioner is not entitled to any interest from the date of filing of the claim petition till the date of the order. Reliance is placed on the Judgment reported as Mohd. Yunus Vs. V.K. Nayyar and Others, , wherein the petitioner is alleged to have taken 5 years in completing his evidence. In that case, the court has in fact come to the conclusion that it was due to the negligence of the petitioner that the evidence could not be recorded within a reasonable time. On that score, the petitioner was deprived of the interest as claimed by the petition.

(3) This is not the case here.

(4) I have carefully perused the order sheet of the court below. In fact, two claim petitions were filed in the year 1979 but were ordered to be consolidated on 11th November, 1980. Thereafter the present petitioner was directed to produce his evidence. He concluded the evidence by producing 5 witnesses on 7th April, 1983. The other petitioner took time to conclude his evidence by 9th July, 1985. From the order sheet, the petitioner cannot be blamed for this delay if at all it can. be called so. Sometime the Court was not having a proper court room, to hold the proceedings and many a time, the petitioner's witnesses were present but their statements could not be recorded for reasons not apparent in the order. It is not a case where the petitioner intentionally avoided to produce his witnesses or conclude his evidence at the earliest possible opportunity.

(5) The petitioner has already been granted interest at the rate of 12% per annum from the date of the order till realisation. In this petition, as observed earlier, he has claimed interest at the rate of 18% per annum from the filing of the claim petition till the order of the court below. On the facts-and circumstances of the case, I find it to be a fit case where the petitioner should be allowed interest from the date of the claim petition to the date of the impugned order.

(6) While accepting the appeal, the respondents are hereby directed to pay interest at the rate of 9% per annum from the date of the claim petition to the date of the order. F.A.O, stands disposed of.