

(1987) 03 DEL CK 0056

In the Delhi High Court

Hara Singh and Others

APPELLANT

Vs

Mewa Ram Singh and Others

RESPONDENT

Date of Decision : 13-03-1987

Acts Referred:

Citation : (1987) 1 ACC 421 : (1987) ACJ 979

Hon'ble Judges : S.B. Wad, J

Bench : Single Bench

Judgement

S.B. Wad, J.—This appeal for enhancement of compensation arises out of the claim petition filed by Hara Singh and his wife Smt. Ram Rakhi on the death of their son Jang Bahadur who died in a road accident on 30-10-1972. The claimants had claimed Rs. 1,00,000/- as compensation. However, the Tribunal has awarded only Rs. 14,600/- During the pendency of the petition before the Tribunal Smt. Ram Rakhi died and her legal heirs were brought on record.

2. The Motor Accident Claims Tribunal held that only those legal heirs who are recognised by the Hindu Succession Act will be entitled to get the compensation. The Tribunal then held that mother was a class I heir and, Therefore, excluded father who is not a class I heir. No compensation was awarded to the father.

3. The Tribunal has gravely erred in mis-reading the Division Bench judgment of this court reported in *Dewan Hart Chand and Ors. v. Municipal Committee of Delhi and Ors.* AIR 1981 Del 71. In that case the father, the brothers and the sisters of the deceased had claimed compensation The Division Bench restricted the compensation to father alone and held that brothers and sisters were not entitled to any compensation. The D.B. relied upon the definition of the claimants under the Fatal Accidents Act which includes father and mother but not the brothers and sisters. Apart from this error the Tribunal ignored that Section 110-A of the Motor Vehicles Act talks of legal representatives and not legal heirs. Although the term legal representatives has not been defined in the Motor Vehicles Act, the definition in the Fatal Accidents Act makes the position clear. The Tribunal, Therefore, erred in holding that the Hindu Succession Act is

applicable for deciding as to who should get compensation, under the Motor Vehicles Act. The part of the judgment of the Tribunal which holds father as not being entitled for compensation has, Therefore, to be set aside. Both mother and father were entitled for compensation u/s 110-A of the Motor Vehicles Act.

4. Since the Tribunal had taken the view that only mother was entitled to compensation, it took six as multiplier because the mother died almost after six years after the accident. But the father who was 56 years at the time of accident is still alive. Since the mother died in 1978 and could not be said to be dependent on the deceased thereafter, in the present case the compensation will be worked out separately for the mother and the father.

5. The income of the deceased in 1972 was Rs. 300/-. The Tribunal has rightly held that he was contributing Rs. 200/- per month to his family. If mother and father are to be taken as two persons who are entitled to it, they would be entitled to Rs. 100/- each per month by way of contribution from the deceased. On this basis the mother would be entitled to Rs. 7,200/- on the date of her death, that is, 6-12-1978. Her legal heirs, who were brought on record, would be entitled to this amount, namely, Rs. 7,200/-. So far as the father is concerned, since he is still alive 20 would be a reasonable multiplier. The compensation for father would, Therefore, be Rs. 24,000/-. These two amounts of compensation would also carry simple interest @ 12 per cent from the date of the filing of the application till its actual realisation. Respondent No. 3, the Insurance Company, is liable to make this payment as the vehicle responsible for causing the accident, namely, RJR 2978 was insured with Insurance Company. Since a sum of Rs. 14,200/- is already paid to the claimants the Insurance Company shall be entitled to the credit of the said amount as also the interest on it, till Rs. 14,200/- were paid. The Insurance Company should draw up a cheque for the additional amount of compensation and interest @ 12 per cent and deposit the same with the Registrar of this court within to months from today. The Registrar, after issuing due notices, shall disburse the amount.

6. For the reasons stated above the appeal is allowed.