

(2018) 07 DEL CK 0137
In the Delhi High Court
Case No : MAC.APP.75 OF 2013

Inder Sain Dua & Anr @APPELLANT@Hash State & Anr

Date of Decision : 03-07-2018

Acts Referred:

Citation : (2018) 07 DEL CK 0137

Hon'ble Judges : SUNIL GAUR, J

Bench : Single Bench

Final Decision : Diposed Of

Judgement

1. Impugned Award of 8th October, 2012 grants compensation of Rs. 8,19,900/- with interest @ 9% p.a. to respondents-claimants on account of

death of one Mohd. Shamim Alam in a vehicular accident on 22nd July, 2009.

2. The factual background of this case, as noticed in the impugned Award, is as under:-

Adumbrated in brief, the facts leading to the above stated petitions are that on 22.07.09 the deceased and the petitioners namely Naresh and

Shyama Devi were in the grocery shop of the petitioner Dhani Ram at Kuli Camp, Vasant Vihar. At about 7.30 PM a Tempo bearing no. DL 1L G

6418 being driven by respondent no.1 in a manner so rash and negligent came at a high speed and climbed on the footpath near the red light of Priya

Cinema. It then hit the jhuggi in which the petitioners/deceased were sitting. All of them sustained injuries including respondent no.1. PCR Van came

on the spot and took all the injured persons to Trauma Centre, AIIMS where their MLCs were prepared. A case was registered vide FIR 230/09 at

the police station Vasant Vihar on the statement of Shyam Singh. Mohd. Shamim could not survive and died on 22.07.09. His postmortem was

conducted where his cause of death was opined as Comma due to head injury

caused by blunt force possible in road traffic accident. He was survived by his wife Bibi Mariam, three minor sons and old aged parents, who were financially and emotionally dependant on him. He was 38 years of age and a Mason by profession. Shyama Devi, Dhani Ram and Naresh sustained simple injuries. They were discharged on the same day of accident. Due to the injuries they could not go to their place of work for about three months. Respondent no.2 was the owner of the Tempo and it was insured with respondent no.3.â??

3. On the basis of evidence led, impugned Award has been rendered by Motor Accident Claims Tribunal (henceforth referred to as â??the Tribunalâ??) and the breakup of compensation awarded is as under:-

1) Loss of : Rs. 7,64,900/-

dependency

2)

2) Loss of : Rs. 25,000/-

Love & Affection

3) Funeral : Rs. 10,000/-

expenses

4)

4) Loss of Estate : Rs. 10,000/-

5)

5)

5) Loss of : Rs. 10,000/-

Consortium

Total

Total : Rs. 8,19,900/-

Less

Less (interim compensation awarded vide

order dated

: Rs. 50,000/-

29.10.2010)

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6. Upon hearing and on perusal of impugned Award and the evidence on record, I find that apart from evidence of Deputy Manager of appellant-

Company (R1W1), there is evidence of Record Clerk, RTO Office, Mathura, U.P. (R2W2), testifying that driving licence issued to the driver of

vehicle in question was valid. In the face of evidence of R2W2, I find that the Tribunal has rightly relied upon it and has fastened the liability upon

appellant to pay the compensation awarded. So far as the nature of employment of deceased is concerned, I find that there cannot be any

documentary proof regarding deceased being a Mason and so, the Tribunal has rightly assessed the "loss of dependency" while considering

deceased to be a skilled person. Since no cross-objections have been filed, so addition towards future prospects cannot be made in appeal by the

Insurer.

7. As regards compensation granted under the "non pecuniary heads", it needs to be brought in tune with decision of Constitution Bench of

Supreme Court in *Pranay Sethi (supra)*. Accordingly, compensation granted by the Tribunal under the head of "loss of love & affection" is

disallowed. However, "funeral expenses" are increased from Rs. 10,000/- to Rs. 15,000/-. Similarly, compensation granted under the head

"loss of estate" is also increased from Rs. 10,000/- to Rs. 15,000/- and compensation granted under the head "loss of consortium" is also

increased from Rs. 10,000/- to Rs. 40,000/-.

8. In view of aforesaid, the compensation payable to respondentsclaimants is reassessed as under:-

9. Consequentially, impugned Award is accordingly modified. The compensation as per this judgment be deposited within four weeks by appellant-

Insurer with the learned Tribunal. The re-assessed compensation shall carry interest @ 9% per annum and it be disbursed in the ratio as indicated in

the impugned Award. Statutory deposit, if any, be refunded to appellant-insurer.

10. With aforesaid directions, this appeal is disposed of.