

(2004) 10 DEL CK 0087
In the Delhi High Court
Case No : MAC. App. 244 of 2004

Jasbir Kaur and Another

APPELLANT

Vs

Yoginder and Others

RESPONDENT

Date of Decision : 27-10-2004

Acts Referred:

Citation : (2005) 1 ACC 741 : (2005) 117 DLT 678

Hon'ble Judges : R.S. Sodhi, J

Bench : Single Bench

Advocate : O.P. Goyal and Vikramajit Reen, for the Appellant; K.S. Bana, for respondent Nos. 1 and 2 and S.L. Gupta, for the Respondent

Judgement

R.S. Sodhi, J.—This appeal is directed against the judgment dated 15th January, 2004, of the Motor Accident Claims Tribunal, New Delhi (for short "the Tribunal") in Suit No. 137/1997, whereby the learned Tribunal has awarded a sum of Rs. 3,55,068/- together with interest @9% per annum on account of an accident that took place on 13th August, 1986, in which Amarjeet Singh lost his life.

2. The facts of the case, as has been noted by the Tribunal, are as under :

"It is alleged that on 13.8.96, Amarjeet was driving his motorcycle number UP-21A-1033 while one Constable Mahavir Singh was sitting on the pillion seat of the same. They were going from Gajraula to Dhanora at a normal speed on the left side of the road. At the same time one truck bearing registration number UP-21-1602 was going ahead of his motorcycle. The said truck was being driven without its back lights, even though, it was night time and was raining heavily. It is further alleged that the driver of the truck suddenly stopped the same in the middle of the road without giving any indication or signal of his intention to do so. As a result, Amarjeet Singh, dashed against the truck which resulted in his instantaneous death on the spot while the pillion rider Mahavit Singh sustained grievous injuries.

It is stated that Amarjeet Singh died due to the sole negligence of the driver of truck number UP-21-1602. It is further stated that Amarjeet Singh was just 34 years of age at the time of his death and was drawing a salary of Rs. 2500/- per month. He was also getting Rs. 1500/- towards miscellaneous expenses from the owner of a farm with whom he was employed. It is also stated that both the petitioners were wholly dependent on Amarjeet Singh for their livelihood. Hence, consequent to his death, they have been rendered destitutes.

Summons of the claim petition were sent to the driver of truck number UP-21-1602, Shri Yogender, as respondent No. 1; its owner, Shri Madan Singh as respondent No. 2 and to the New India Assurance Company Limited with which the said truck was insured as respondent No. 3. Summons were also sent to Surender Singh the owner of Motorcycle number UP-21A-1033 which was being driven by deceased Amarjeet Singh and to the National Insurance company with which the said motorcycle was insured. These two were impleaded as respondents No. 4 and 5 respectively. The parents of Amarjeet Singh, namely, Dr.Sudershan Singh and Surinder Kaur were imp leaded as respondents No. 6 and 7 and summons were sent to them as well."

3. It is contended by counsel for the appellants that the Tribunal went wrong in assessing the salary of the deceased at Rs. 2,500/- as PW-4 in his deposition has clearly stated that the deceased was getting a sum of Rs. 2,500/- as salary besides free quarter, motorcycle and other benefits which amount to Rs. 1500/-. Counsel further contended that this amount of Rs. 1500/- ought to have been taken into consideration by the Tribunal while calculating compensation. He also submitted that only a sum of Rs. 15,00/- has been given on account of funeral expenses, consortium and love and affection and that the same is on the lower side.

4. Counsel for the insurance company on the other hand contended that the Tribunal has already been very magnanimous and has awarded much higher than was due.

5. Heard counsel for the parties and have perused the judgment under challenge. It appears to me that a sum of Rs. 2,500/-, which was a salary of the deceased, has been taken into consideration while calculating the compensation. The assertion of the counsel for the appellants that a sum of Rs. 1500/- should also have been taken into consideration cannot be accepted since that is not the part of the salary. However, the award, as regards love and affection, loss of consortium and funeral expenses, is concerned, the amount awarded by the Tribunal is indeed on the lower side. In the facts and circumstances of this case, since appellant No. 1 became widow at an earlier age, it would be appropriate that this amount be enhanced to Rs. 50,000/-. The award is modified accordingly. The enhanced amount of Rs. 35,000/- shall carry an interest of 9% per annum from the date of filing of this appeal till the date of realisation. The amount shall be paid by respondent No. 3, who has been held liable by the Tribunal.

6. With this, MAC.APP.244/2004 is disposed of.