(1989) 09 DEL CK 0038

In the Delhi High Court

Case No : First Appeal No. 81 of 1981

Kewal Krishan and Others APPELLANT

Vs

Delhi Transport Corporation and Another RESPONDENT

Date of Decision : 07-09-1989

Acts Referred:

Citation : (1990) 1 ACC 466 : (1990) ACJ 995 : (1990) 41 DLT 282 : (1989) 2 ILR Delhi 558 : (1989) RLR 467

Hon'ble Judges : M. Sharief-ud-din, J

Bench : Single Bench

Advocate : A.C. Gambhir and J.N. Aggarwal, for the Appellant;

Judgement

Malik, J.

(1) The appellants are aggrieved of the adequacy of the amount awarded to them as compensation by the Motor Accident Claims Tribunal by its order dated 15th of December 1980. The total award made was for a sum of Rs. 16,200 for the payment of which 60 days'' time was given failing which the appellants were made entitled to 6% interest per annum from the date of the award till realisation. There is no cross-appeal by the respondents. Hence the findings on other issues have become final and it is not open to the respondents to challenge the findings that this accident occurred as a result of rash and negligent driving of the offending vehicle by respondent No. 2. The victim of the accident is one Brijinder Kumar and the date of the accident is 29th of April 1976 at 6 p.m. at Vinay Nagar, New Delhi. The offending bus No. Dhp 2083 belonged to the D.T.C. The age of the deceased on the date of the incident was 24 years and he was unmarried.

(2) The appellants had led evidence of Public Witness 1 Dewan Chand, grandfather of the deceased, and Public Witness 7 Kewal Krishan, father of the deceased, who had deposed that the income of the deceased was Rs. 2500 per month. The break-up given was Rs. 2000 from the dairy business and Rs. 500

from the restaurant business. The learned Presiding Officer of the Tribunal felt that in the absence of the documentary proof about the income of the deceased his income per month can safety be placed at Rs. 500. Thereafter, it reduced it to Rs. 100 per month as according to the Tribunal this amount of Rs. 100 could be taken to be the contribution of the deceased towards his parents. This the Tribunal did on the ground that the brothers of the deceased were also earning members and were supporting the appellants and the deceased being unmarried would be, according to the wisdom of the Tribunal, spending more on himself. I am surprised on the approach made by the Tribunal. It is obvious that whatever these witnesses had said was not rebutted at any stage. Mr. Aggarwal maintains that even though it be so, the testimony of father and grandfather in this regard cannot be taken to be a gospel truth unless some more evidence is led giving details as to how the figure was arrived at by the witnesses. I agree with Mr. Aggarwal that in cases of this nature there is every likelihood of an exaggerated version being advanced by the interested party. But then the approach has to be a proper one. When I use the expression ''proper'' I mean that the compensation awarded must be just, fair and reasonable. In the present case, Therefore, I am of the view that the figure of Rs. 500 per month be held to be the contribution of the deceased towards his parents. the Tribunal has applied a juniper of 15 after taking into consideration the history of longevity of age in the family of the deceased. Mr. Gambhir has assailed this and has submitted that the deceased was a youngman of 24 and at least a multiplier of 30 should have been applied. I do not agree because the multiplier applied in this case has been determined after taking into account the age of the parents and the period of their likelihood of pending on the deceased in their old age. I am Therefore of the view that a compensation of Rs. 90,000 shall be paid to the appellants. This, in my view, will meet the ends of justice. This amount less by any amount already paid shall be deposited with the Registrar within two months from today failing which the appellants shall be entitled to interest at the rate of 12% from the date of this order till the date of final realisation.

