
(2010) 02 DEL CK 0308

In the Delhi High Court

Case No : MAC. App. No. 378 of 2004

Kumari Chunni Kumari and Others

APPELLANT

Vs

Balwant and Others

RESPONDENT

Date of Decision : 01-02-2010

Acts Referred:

Citation : (2010) 02 DEL CK 0308

Hon'ble Judges : J.R. Midha, J

Bench : Single Bench

Advocate : S.N. Parashar, for the Appellant; Ramesh Kumar, for R-3, for the Respondent

Final Decision : Allowed

Judgement

J.R. Midha

1. The appellants have challenged the award of the learned Tribunal whereby compensation of Rs.3,45,600/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

2. The accident dated 29th April, 2001 resulted in the death of Hari Parsad. The deceased was survived by his widow, two sons and a daughter who filed the claim petition before the learned Tribunal. The deceased was also survived by his parents who were made respondents in the claim petition.

3. The deceased was aged 26 years at the time of the accident and was working as a Conductor with a Transport Company. However, in the absence of documentary evidence of his income, the learned Tribunal took the minimum wages of Rs.2,700/-, deducted 1/3rd towards the personal expenses and applied the multiplier of 16 to compute the loss of dependency at Rs.3,45,600/-.

4. The learned counsel for the appellants has urged the following grounds at the time of hearing of this appeal:-

(i) The increase in minimum wages due to inflation and rise in price index be

taken into consideration.

(ii) The deduction towards the personal expenses of the deceased be reduced from 1/3rd to 1/4th.

(iii) The multiplier be enhanced from 16 to 17.

(iv) The compensation be awarded for loss of love and affection, loss of estate, loss of consortium and funeral expenses.

(v) The rate of interest be enhanced from 7% per annum to 7.5% per annum.

5. It is well settled by the catena of judgments of this Court in the cases of Kanwar Devi and Others Vs. Bansal Roadways and Others, , National Insurance Company Ltd. Vs. Renu Devi and Others, and UPSRTC vs. Munni Devi, MAC.APP.No.310/2007 decided on 28.07.2008 that the Court should take judicial notice of increase in minimum wages to meet the increase in price index and inflation rate. The Court has taken the view that the minimum wages get doubled over the period of 10 years and increase in minimum wages is not akin to future prospects and the income should be computed by taking the average of minimum wages and its double.

6. Following the aforesaid judgments, the income of the deceased for computation of compensation is taken to be Rs.4,050/- [(Rs.2,700 + Rs.5,400)/2].

7. Following the judgment of the Hon''ble Supreme Court in the case of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , the personal expenses of the deceased are reduced from 1/3rd to 1/4th as the deceased has left behind six legal representatives, the multiplier is enhanced from 16 to 17. Rs.10,000/- is awarded for loss of love and affection, Rs.10,000/- towards loss of estate, Rs.5,000/- towards loss of consortium and Rs.5,000/- towards funeral expenses. The appellants are entitled to total compensation of Rs.6,49,650/- [(Rs.4,050 x 12 x 3/4 x 17) + Rs.10,000 + Rs.10,000 + Rs.5,000 + Rs.5,000].

8. The appeal is allowed and the award amount is enhanced from Rs.3,45,600/- to Rs.6,49,650/- along with interest @7.5% per annum from the date of filing of the petition till realization.

9. The enhanced award amount along with interest be deposited by respondent No.3 with UCO Bank, Delhi High Court Branch A/c Guddu Kumar by means of a cheque through Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400) within 30 days.

10. Upon the aforesaid deposit being made, the UCO Bank is directed to keep the said amount in fixed deposit till the order of disbursement is passed after examining the claimants.

11. List for appearance of the claimants on 3rd May, 2010.

12. All the pending applications stand disposed of.

13. Copy of this order be given "Dasti" to learned counsel for both the parties under signature of Court Master.