

(1989) 01 DEL CK 0009

In the Delhi High Court

Case No : First Appeal No. 156 of 1975

Laksbrni Krishnan and Others

APPELLANT

Vs

Gian Parkash etc.

RESPONDENT

Date of Decision : 10-01-1989

Acts Referred:

Citation : (1989) 17 DRJ 186

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

Bench : Single Bench

Advocate : O.P. Goyal, for the Appellant;

Judgement

S.B. Wad, J.

(1) This is an appeal for enhancement of compensation awarded by the Motor Accident Claims Tribunal in Suit No. 234/7C, decided on 20-5-1975. The Tribunal recorded the finding that the deceased was getting Rs. 583.00 per month and on the basis of Rs. 300.00 per month as the dependency of the family the Tribunal worked out the figure of Rs. 86,400.00 towards compensation. The Tribunal took 24 as the multiplier since the deceased was 34 years old at the time of the accident. The claimants were the widow and three children (the mother was also a claimant, but died during the pendency of the appeal). The claimants have claimed Rs. 2 lakhs as compensation.

(2) There is no cross-appeal filed by respondent No. 2, the Union of India who jeep No. DII 4178, was found by the Tribunal to be the offending vehicle causing accident to deceased Shri S. Krishnan, while he was driving his scooter No. DLJ 6476 on 1-4-70. Therefore, in this appeal the only question that is left for determination is the adequacy of compensation to be paid to the claimants.

(3) The deceased was working as an investigator in the Office of the Chief Controller of Imports and Exports, Ministry of Foreign trade of the Government of India. At the time of his death his salary was Rs. 583.00 per month. The claimants have filed CM. 1374/87 under Order 41 Rule 33, wherein it is claimed

that the subsequent events such as the rise in salary and allowances due to the recommendations of the Pay Commissioners should be taken into account. Notice was issued in this application. The Union of India, respondent No. 2, was served, but did not put in appearance. The application was allowed.

(4) The counsel for the appellants has furnished the statement of the natural increases which the deceased would have got with the revision of scale by the Third Pay Commission Report, which took effect from 1-4-1973. By 1.1.1985 the salary and allowances of the deceased would have been Rs. 1938.98. Since the Union of India has not filed any counter affidavit, these figures are to be accepted as correct figures on the basis of the recommendations of the Third Pay Commission and revision of DA. from time to time.

(5) If the deceased would have been alive on 1.1.73 his salary and allowances would have been Rs. 727.58 per month. The average of the salary would work out to Rs. 1,280.00 per month. The average is to be worked out because the multiplies of 24 is to be made applicable. On that basis the compensation would work out to Rs. 2,59,200.00. But since the claimants have claimed only Rs. 2 lakhs as compensation. I allow the compensation of Rs. 2 lakhs. The appellants shall also be entitled to 6 per cent simple interest from the date of the claim application till the date of realisation of the amount. Counsel for the appellant states that the Award amount had been paid by the respondent No. 2 after the Award amount was declared by the Tribunal. The respondent No. 2 would be entitled to credit for such payment as also the proportionate interest thereon.

(6) The appeal is allowed. No order as to costs.