

(1989) 03 DEL CK 0084
In the Delhi High Court
Case No : F.A.O. No. 69 of 1978

Mariam and Others

APPELLANT

Vs

Delhi Transport Corporation and Another

RESPONDENT

Date of Decision : 30-03-1989

Acts Referred:

Citation : (1989) ACJ 1041

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

Bench : Single Bench

Advocate : O.P. Goyal, for the Appellant; J.N. Aggarwal, for the Respondent

Final Decision : Allowed

Judgement

S.B. Wad, J.—In an accident caused by bus No. DLP 1609 belonging to the Respondents one Panna Lai was killed on 12.11.1972. The Tribunal awarded a sum of Rs. 18,450/- towards compensation to the claimants. This appeal is filed for enhancement of the compensation. There is no cross-appeal and therefore, the fact of negligence and liability for the payment of the compensation is not in doubt.

2. The Tribunal, after looking into the evidence regarding the income of the deceased, had arrived at the correct conclusion wherein it had stated that apart from his salary of Rs. 350/- p.m., the deceased was having the additional income as he was a technical hand/electric technician and he was required to support a family of nine persons. The Tribunal, however, had gone wrong in deducting Rs. 150/- p.m. on account of the rent which the family was receiving for the house owned by the deceased. This deduction is impermissible as it has nothing to do with the damages which are paid to the claimants on account of loss of life. After the deduction of Rs. 150/- per month the Tribunal has found that the claimants were entitled to a compensation of Rs. 21,600/- . If the sum of Rs. 150/- p.m. cannot be deducted as being impermissible, then the income and the dependency of the deceased towards the family comes to Rs. 300/- per month.

The mill in which the deceased was working had produced the evidence in the Tribunal to show that he was 46 years of age at the time of the accident. The Tribunal was wrong in preferring the evidence of doctor to the said evidence. The determination of the age of a person by a doctor during the course of post-mortem is only by way of physical inspection of the body of the deceased and therefore, it cannot be preferred to the date of birth recorded at the time of employment. I, therefore, hold that the deceased was 46 years of age at the time of accident. Therefore, the proper multiplier in this case would be 14. Calculating on this basis, the claimants are entitled to a sum of Rs. 50,400/- towards the compensation. They are also entitled to 6 per cent simple interest from the date of the application till the date of payment. If the amount of compensation, as awarded by the Tribunal, has already been paid to the claimants, the Respondents would be entitled for a credit to the extent of the said amount as also the proportionate interest thereon.

3. For the reasons stated above the appeal is allowed. The Respondents would draw up a cheque for the amount in question and deposit the same with the Registrar of this Court within two months from today. The Registrar will, after issuing notices to the claimants, would disburse the amount to them.