

(2003) 11 DEL CK 0023
In the Delhi High Court
Case No : FAO No. 567 of 2003

Mohd. Shafi and Others

APPELLANT

Vs

Om Metals and Mineral (P) Ltd. and Another

RESPONDENT

Date of Decision : 25-11-2003

Acts Referred:

Citation : (2004) 3 ACC 171 : (2005) ACJ 1651 : (2004) 112 DLT 936

Hon'ble Judges : S.K. Mahajan, J

Bench : Single Bench

Advocate : B.L. Wali, for the Appellant; K. Venkatraman, for the Respondent

Final Decision : Allowed

Judgement

S.K. Mahajan, J.—ADMIT.

2. With the consent of the parties, the matter has been heard and disposed of by this order.

3. Appellants have filed this appeal for enhancement of compensation awarded by the Motor Accidents Claims Tribunal for the death of the son of appellants 1 and 2 in a road accident caused by the rash and negligent driving of the offending vehicle.

4. The only point urged in this appeal is that after taking the income of the deceased at RS. 1500/ 1600 per month the Tribunal has not considered the future prospects in the life and career of the deceased and the loss of dependency to the family has been assessed on the basis of the income at the time of his death. I find merits in the contention of learned counsel for the appellant inasmuch as while considering the loss of dependency to the family, it is the duty of the Courts and the Tribunal to consider the rise in cost of living and inflation as also the future prospects in the life and career of the deceased. The deceased in the present case was admittedly earning about Rs. 1600/- per month. Considering the future prospects in the life and career of the deceased

and considered the rise in cost of living and inflation and applying the principles laid down in Smt. Sarla Dixit and another Vs. Balwant Yadav and others, , the average income of the deceased can be estimated at Rs. 2400/- per month. Deducting 1/3rd from this as has been done by the Tribunal, towards his personal expenses the loss of dependency to the family would come to Rs. 1600/- per month or say Rs. 19200/- per year. Applying the multiplier of 18 the loss of dependency to the family would come to Rs. 3, 45, 600/-. Adding to this another sum of Rs. 14, 000/- towards non-pecuniary damages, the total compensation payable to the family would come to RS. 3, 59, 600/-.

5. I, accordingly, allow this appeal, modify the award and direct that the appellants will be entitled to total compensation of Rs. 3, 59, 600/-. The appellants will also be entitled to interest @ 8% per annum on the enhanced compensation from the date of the filing of the application before the Tribunal till payment.