(1994) 05 DEL CK 0075

In the Delhi High Court

Phoolanrani and Others APPELLANT

Vs

Ratan Lal and Others RESPONDENT

Date of Decision : 04-05-1994

Acts Referred:

Citation : (1994) 2 ACC 552

Hon'ble Judges : R.L. Gupta, J

Bench : Single Bench

Judgement

R.L. Gupta, J.—This first appeal is directed against the judgment dated 29.4.1986 of the learned Motor Accident Claims Tribunal, Delhi by which he passed an award of Rs. 1,20,000/- in favor of the appellants 1 to 3 and 5 to 8 with costs and interest at the rate of 12% per annum from the date of the petition till realisation, including Rs. 15,000/- which was already paid by way of interim relief u/s 92-A of the Motor Vehicles Act.

2. The appeal was admitted only in respect of one aspect and that was that the appellants had claimed that the deduction on account of the personal expenses of the deceased were taken on higher side by the Tribunal and the Tribunal had not considered the nature of dependency and number of family members.

3. However, it will be appropriate to first give the circumstances in which this accident took place. On 19.11.1984 the deceased Som Nath Bhutani, a resident of Ranchi in Bihar State was standing on the bus stand of C-2B, Route No. 854 near a Pan shop in Janak Puri, New Delhi. He wanted to cross the road when the driver of a Standard-20 Matador No. CHA-2832 hit him from the front side of the vehicle while driving it rashly, negligently, with a high speed and without blowing any horn. It was stopped at a distance of about 100 yards from the place of the accident and ultimately the driver sped away. As a result of this accident Som Nath Bhutani sustained injuries and died leaving behind the appellants except appellant No. 4 as his dependents. Appellant No. 4 who is a daughter of the deceased, was stated to have married and settled in life.

4. The short question to be decided in this appeal is as to whether the amount of dependency of the appellants has been correctly fixed by the learned Tribunal or not. The judgment shows that the deceased was getting a salary of Rs. 1581.30 per month from Heavy Engineering Corporation Limited where he was employed as Assistant Foreman. Learned Tribunal fixed the dependency of the appellants at Rs. 1000/- per month only from the salary of the deceased.

5. I have heard arguments advanced by learned Counsel for the parties.

Learned Counsel for the appellants has drawn my attention to a recent judgment of this Court in the case of Smt. Jasbir Kaur and Ors. v. Section Sampuran Singh and Ors. 1993 (27) DRJ 502, in which the facts were more or less similar. In that case the deceased was employed as an Electrician with The Statesman on a monthly salary of Rs. 738.80. He had seven dependents and the Tribunal had fixed the dependency of the legal representatives of the deceased at Rs. 500/- per month only meaning thereby that the deceased was presumed to be spending Rs. 238.80 per month on himself. There was a statement of the widow of the deceased that the deceased had been making over the entire salary to her to bring up and feed the family. In the present case though there is no such statement made by PW-6 Naresh Kumar son of the deceased, but so far as the number of dependents on the deceased are concerned, there is no dispute that he had as many as seven dependents which included his widow, three sons and three daughters and all of whom are the appellants in this Court. It is difficult to visualise that a person getting such a meagre salary would spend a major part of it upon himself, leaving his dependents at the verge of starvation. Considering the poor strata of society to which the unfortunate deceased belonged and there being no suggestion in the cross-examination of his son that he was given to way-ward life, it must be presumed that he was spending the bare minimum upon himself and utilizing its maximum portion for the upkeep of his wife and six children after the marriage of one daughter who is appellant No. 4. In fact, if we delve more deep into the matter, who does not know that the parents do dole out quite a good amount even upon married daughters. There is the further statement of his son Naresh according to which during the life time of the deceased they were living in a cheap official quarter and after his death they had to rent a house at Rs. 1000/- per month. In the above referred judgment, it was held that in the circumstances of the case the personal expenses of the deceased should not be taken at more than Rs. 100/- per month. In the present case also taking into consideration number of dependents and the meagre salary which the deceased was earning, it should be presumed that his personal expenses would not exceed Rs. 200/- per month. Learned Counsel for the respondent-Insurance Company has not been able to show any authority to the contrary. Thus the dependency of the appellants is liable to be fixed at Rs. 1380/- per month which is ordered accordingly. Therefore, applying multiplier of 10 years, as done by the Tribunal, the total amount of compensation would work out at Rs. 1,65,600/-. Therefore, the amount of the award is enhanced to Rs. 1,65,600/-. The additional benefits granted by this judgment will be distributed to the legal representatives in the same ratio in which the amount of Rs. 1,20,000/- has been divided by the Tribunal. In addition to the above amount, the appellants will also be entitled to realise interest at the rate of Rs. 12% per annum from the date of the petition till realisation from the respondents. However, a sum of Rs. 15,000/- already paid to the appellants will he adjusted. Appellants will also be entitled to the costs of the appeal which stands disposed of. The payment shall be made within 2 months.