

(2009) 10 DEL CK 0150
In the Delhi High Court
Case No : FAO No. 122 of 1999

P.K. Omana Mohan Das and Another

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 23-10-2009

Acts Referred:

Citation : (2009) 10 DEL CK 0150

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

Bench : Single Bench

Advocate : S. Janani and Aakansha Sharma, for the Appellant; Suraj Prakash, for the Respondent

Final Decision : Allowed

Judgement

J.R. Midha, J.—The appellants have challenged the award of the learned Tribunal whereby compensation of Rs. 4,36,700/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

2. The accident dated 10th October, 1994 resulted in the death of Hawaldar P. Mohan Dass. The deceased was survived by his widow and minor daughter who filed the claim petition before the learned Tribunal.

3. The deceased was working as a Hawaldar with Army and was earning Rs. 3,255/- per month. The learned Tribunal deducted Rs. 1,030/- towards the personal expenses of the deceased and applied the multiplier of 16 to compute the loss of dependency at Rs. 4,27,200/-. The learned Tribunal has awarded Rs. 5,000/- towards loss of consortium, Rs. 3,500/- towards loss of estate and Rs. 2,000/- towards funeral expenses. The total compensation awarded is Rs. 4,36,700/-.

4. The learned Counsel for the appellants submit that the appellant was staying in the Government accommodation allotted to the deceased and Rs. 170/- was the HRA at that time and, therefore, Rs. 170/- should have been added to the monthly income of the deceased. The learned Counsel for the appellant further

submits that the learned Tribunal has not taken the future prospects into consideration for computing the loss of dependency. The learned Counsel also seeks enhancement of the compensation for funeral expenses, loss of estate and loss of consortium. The learned Counsel further submits that no compensation has been awarded towards the loss of love and affection which should be awarded to the appellants.

5. With respect to the claim of Rs. 170/- per month towards compensation in lieu of the accommodation, the contention of learned Counsel for the appellant is accepted and Rs. 170/- is added to the monthly income of the deceased. The monthly income of the deceased is taken to be Rs. 3,425/- (Rs. 3,255 + Rs. 170). The learned Tribunal has not taken the future prospects into consideration. It is well settled by the recent judgment of the Hon''ble Supreme Court in the case of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, that 50% has to be added towards the future prospects where the deceased was less than 40 years old and had a permanent job.

6. Following the aforesaid judgment of the Hon''ble Supreme Court, 50% is added towards the future prospects of the deceased and 1/3rd is deducted towards the personal expenses of the deceased. The loss of dependency of the appellant is computed to be Rs. 6,57,600/- [(Rs. 3,425 + 50% of Rs. 3,425) x 2/3 x 12 x 16]. The learned Tribunal has not awarded any compensation towards loss of love and affection. Rs. 10,000/- is awarded towards the loss of love and affection. The learned Tribunal has awarded a sum of Rs. 2,000/- towards the funeral expenses against the claim of Rs. 22,093/- duly proved by the evidence of PW3 and PW4 that the body of the deceased was embalmed at Lady Hardinge Medical College, New Delhi and was air lifted to Cochin for further transportation to the native place. The appellants and her parents-in-law accompanied the dead body. The air tickets were proved as Ex.PW3/2 and Ex.PW3/3. The appellants incurred an expenditure of Rs. 33,653/- against which the employer paid a sum of Rs. 11,560/- only. It has been proved by sufficient evidence that the appellants incurred an expenditure of Rs. 22,093/-. It is quite surprising to note the finding of the learned Tribunal that the appellants have been adequately compensated and only Rs. 2,000/- has been awarded by the learned Tribunal. The finding of the learned Tribunal in this regard is set aside and the expenses towards the transportation of dead body, travel of the appellants and funeral expenses are enhanced from Rs. 2,000/- to Rs. 22,093/-. The learned Tribunal has awarded Rs. 5,000/- towards the loss of consortium which is not disturbed. Considering that the accident occurred in the year 1994, compensation for loss of estate is enhanced from Rs. 3,500/- to Rs. 5,000/-.

7. The appellants are entitled to total compensation of Rs. 6,99,693/- (Rs. 6,57,600 + Rs. 22,093 + Rs. 5,000 + Rs. 5,000 + Rs. 10,000).

8. The appeal is allowed and the award amount is enhanced from Rs. 4,36,700/- to Rs. 6,99,693/-. The learned Tribunal has awarded interest at the rate of 12% per annum which is not disturbed on the original award amount of Rs.

4,36,700/-. However, on the enhanced award amount, the rate of interest shall be 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. 1 within 30 days with State Bank of India, Tis Hazari Branch, Delhi.

10. The deposit be made by means of a cheque drawn in the name of State Bank of India A/c P.K. Omana Mohan Dass and be handed over to Mr. H.S. Rawat, Relationship Manager, Tis Hazari Branch, Tis Hazari (Mb: 09717044322).

11. During the pendency of the appellant, respondent No. 4 has expired. The rights of respondent No. 4 have been devolved upon the appellants who are substituted in place of respondent No. 4.

12. The order with respect to the disbursement of the award amount shall be passed on the next date of hearing after examining the appellants who are directed to remain present in Court on 8th December, 2009.

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

14. All pending applications stand disposed of.