(2012) 07 DEL CK 0344

In the Delhi High Court

Case No : MAC 445 of 2010

Prabhawati and Others — APPELLANT

Vs

New India Assurancec Co. Ltd. and Others — RESPONDENT

Date of Decision : 31-07-2012

Acts Referred:

Citation : (2012) 07 DEL CK 0344

Hon'ble Judges : G.P. Mittal, J

Bench : Single Bench

Advocate : Suman N. Rawat, for the Appellant;

Final Decision : Allowed

Judgement

G.P. Mittal, J.—The Appeal is for enhancement of compensation of Rs. 11,02,850/- for the death of Jaishree, who died in a motor vehicle accident which occurred on 8th July, 2006. The Claims Tribunal accepted the deceased''s income as Rs. 8998/- deducted 1/4th towards personal expenses and applied the multiplier of ''13'' taking the age of the deceased as 47 years (as per ration card).

2. The only ground of challenge raised during the hearing of the appeal is that the deceased''s salary by way of additional evidence and the last pay certificate Ex.AW-1/2 is established as Rs. 18,006/-. The Appellants were entitled to award compensation on the basis of the salary which was retrospectively revised w.e.f. 1.1.2006 on implementation of the 6th Pay Commission.

3. I would agree with the learned counsel for the Appellant that the salary which is revised retrospectively is the actual salary. This must be considered to compute the loss of dependency.

4. At the same time, it transpires that the age of the deceased was taken as 47 years for granting loss of dependency. As per Ex.AW1/1 proved at the time of additional evidence recorded before the Registrar, the deceased''s date of birth is 15th December, 1952. Thus, the deceased was 54 years on the date of the

accident. In the circumstances, the appropriate multiplier would be ''11'' as against ''13'' taken by the Claims Tribunal.

5. I have before me, the salary certificate Ex.AW1/2, showing the deceased''s gross salary as Rs. 18,006/- on 8th July, 2006. This included a sum of Rs. 230/- towards washing allowance which is required to be deducted being an allowance personal to the deceased and incidental to the employment.

6. On applying the principles as laid down in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , the loss of dependency comes to Rs. 16,69,074/- (1776 x12 - 11,000/- (income tax) x 3/4 x 11).

7. The Appellants are further entitled to a sum of Rs. 25000/- towards loss of love and affection and Rs. 10,000/- each towards loss of consortium, loss to estate and funeral expenses. The overall compensation comes to Rs. 17,24,074/-.

8. There is an enhancement of Rs. 6,21,224/-, which shall carry interest @ 8% per annum from the date of filing of the petition till its payment.

9. The Respondent/Insurance Company is directed to deposit the enhanced amount with Claims Tribunal within six weeks.

10. 10% of the enhanced compensation shall be payable to each of Appellant Nos. 2 to 5. Rest 60% shall enure for benefit of the First Appellant.

11. 80% of the compensation awarded to the First Appellant shall be held in fixed deposit for a period of two years, four years, six years and eight years in equal proportions. 20% shall be released to her on deposit.

12. 50% of the compensation awarded to the Appellant Nos. 2 to 5 shall be held in fixed deposit for a period of two years. Rest 50% shall be released to them on deposit.

13. It goes without saying that the Claims Tribunal shall be at liberty to deal with any application for premature withdrawal of the amount ordered to be held in fixed deposit on its own merits.

14. The Appeal is allowed in above terms.

15. No costs. Dasti.