(2011) 05 DEL CK 0385

In the Delhi High Court

Case No : FAO No. 518 of 1999

Pramila Sachdeva APPELLANT

Vs

Kuldip Singh and Others RESPONDENT

Date of Decision : 06-05-2011

Acts Referred:

Citation : (2011) 4 TAC 511

Hon'ble Judges : Reva Khetrapal, J

Bench : Single Bench

Advocate : Navneet Goyal, for the Appellant; Pankaj Seth, for R-3, for the Respondent

Judgement

Reva Khetrapal, J.—This appeal is directed against the judgment and award dated 12th August, 1999 passed by the Motor Accident Claims Tribunal awarding a sum of Rs. 5,12,000/- alongwith interest thereon.

2. The claim petition which resulted in the institution of the present appeal related to the death of one Chetan Sachdeva (hereinafter referred to as "the deceased), who was driving a two wheeler scooter with one Sushil Kumar Puri, sitting on the pillion seat. When the said scooter was on the National Highway near Mayur Vihar Phase-2, it was hit by the offending truck, which was being driven in a rash and negligent manner by the Respondent No. 1. The said truck, which was owned by Respondent No. 2 and insured with the Respondent No. 3 had come from behind and hit the scooter. Both the driver and the pillion rider succumbed to the injuries sustained by them. The claim petition was filed by the father and the mother of the deceased. The father of the deceased having died on 22.05.1993, his name was deleted from the array of parties. The present appeal has been filed by the mother of the deceased on the ground that the Claims Tribunal has awarded a very meager amount by way of compensation for the untimely demise of her son.

3. Mr. Navneet Goyal, the learned Counsel for the Appellant assailed the award

primarily on three counts:

(i) The Claims Tribunal should have applied the multiplier of 14 instead of the multiplier of 10 to the multiplicand constituting the loss of dependency of the Appellant in view of the fact that the age of the Appellant on the date of the accident was 43/44 years;

(ii) The Claims Tribunal erred in awarding interest to the claimants only for a period of three years i.e. with effect from 1.8.96 to 12.8.99, on the ground that the Petitioners took their own time to complete their evidence which was closed only on 3.2.99, while no delay at all was caused by the Appellant;

(iii) The Claims Tribunal, though it awarded non-pecuniary damages for loss of love and affection and for funeral expenses, has not awarded any amount whatsoever for loss of estate of the deceased.

4. Mr. Pankaj Seth, learned Counsel for the Respondent No. 3 - Insurance Company sought to support the award on the ground that a just and fair amount has been awarded to the Appellant by the Claims Tribunal and as such the award passed by the Claims Tribunal called for no interference.

5. Adverting to the first count on which the award was challenged by Mr. Goyal viz. that the multiplier of 14 should have been applied to the multiplicand constituting the annual loss of dependency of the deceased, a bare glance at the second Schedule to the Motor Vehicles Act, 1988 shows that for the age group of victims between 40 and 45 years of age, the appropriate multiplier is the multiplier of 15. In terms of the guidelines laid down by the Supreme Court in the case of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, however, which are meant for the guidance of all Courts and Tribunal so as to ensure uniformity in the dispensation of compensation to motor accident victims, the multiplier of 14 is stated to be the appropriate multiplier for the age-group of persons between 41 years to 45 years. The multiplier of 14 is, thus, the appropriate multiplier in the present case.

6. The grievance of the Appellant on the second count, viz., that there was no justification for the Claims Tribunal to grant interest only for a limited period of 3 years, also appears to be justified. The records show that the Appellant was not to blame for the fact that a delay was caused in closing the evidence of the Petitioners. The Appellant was regularly summoning her witnesses on each and every date (except on one or two dates) and their evidence was being recorded by the court. The delay occurred primarily on account of administrative reasons, either because the Presiding Officer was on leave or the connected file was missing or because the police officials, who were to produce the records from the VRK, did not care to turn up/absented themselves despite service of summons and bailable warrants on them. The Appellant cannot be blamed for the said delay and is accordingly held entitled to receive interest from the date of the institution of the petition, i.e., from 11.10.91 till the date of its disposal at the rate of interest awarded by the Claims Tribunal i.e. 12% per annum.

7. As regards the third ground on which the award is sought to be challenged, apparently, the Claims Tribunal, while awarding the non-pecuniary damages under other heads, lost sight of the fact that the Appellant was also entitled to non-pecuniary damages for loss of the estate of her deceased son. The Appellant is accordingly awarded a sum of Rs. 5,000/- towards loss of estate.

8. To conclude, the Appellant is held entitled to receive compensation of Rs. 6,30,000/- for loss of dependency (i.e. Rs. 3,750 x 12 x 14). In addition, the Appellant is held entitled to receive a sum of Rs. 15000/- towards loss of love and affection, Rs. 2,000/- towards funeral expenses as awarded by the Tribunal and a further sum of Rs. 5,000/- towards loss of the estate of the deceased. The total amount of compensation, thus, comes to Rs. 6,52,000/-.

9. The award is accordingly modified to the aforesaid extent. Interest at the uniform rate of 12% per annum, as awarded by the Tribunal, shall be payable from the date of institution of petition till date of realization.

10. The amount awarded by the Claims Tribunal, if not already paid, and the enhanced amount along with the interest thereon shall be deposited by way of a cheque drawn in favour of the Appellant with the Registrar General of this Court by the Respondent No. 3/Insurance Company within 30 days from today.

11. The appeal stands disposed of accordingly.

