

(2010) 06 DEL CK 0017

In the Delhi High Court

Case No : M.A.C. Appeal No. 505 of 2007

Rameshwari and Others

APPELLANT

Vs

Delhi Transport Corporation and Others

RESPONDENT

Date of Decision : 01-06-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 21 Rule 1

Citation : (2012) ACJ 217

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

Bench : Single Bench

Advocate : Navneet Goyal and Mr. Varun Kumar, for the Appellant; Ataul Haque, Pradeep Gaur and Mr. Amit Kumar Pandey, 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. 8.60.080 has been awarded to the appellants. The appellants seek enhancement of the award amount. The accident dated 2.1.2006 resulted in the death of Satbir Singh. The deceased was survived by his widow, two minor sons, one minor daughter and parents who filed the claim petition before the Claims Tribunal.

2. Deceased was aged about 43 years at the time of the accident and was working as an electrician with Delhi Jal Board drawing a gross salary of Rs. 14,203 per month. The Claims Tribunal took the income of the deceased at Rs. 82,008 per annum (Rs. 6,834 per month) by taking the average of Rs. 74,016 (Rs. 6,168 x 12) + Rs. 90,000, deducted 1/3rd towards his personal expenses and applied the multiplier of 15 to compute the loss of dependency at Rs. 8,20,080. Rs. 10,000 has been awarded for loss of consortium, Rs. 10,000 towards loss of love and affection, Rs. 10,000 for expectancy of the life of the deceased and Rs. 10,000 for funeral expenses. The total compensation awarded is Rs. 8,60,080.

3. The learned counsel for the appellants has urged the following grounds at the time of hearing of this appeal:

- (i) The income of the deceased be taken as Rs. 14,203 per month.
- (ii) 50 per cent be added towards future prospects.
- (iii) The personal expenses of the deceased be reduced from 1/3rd to 1/4th.
- (iv) The compensation be awarded for loss to estate.

4. The learned counsel for respondent No. 3 submits that the multiplier is liable to be reduced from 15 to 14 and the future prospects be taken into consideration by adding 30 per cent in terms of the judgment of the Hon"ble Supreme Court in the case of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, .

5. The salary of the deceased has been proved by certificate, Exh. PW2/1, according to which the salary of the deceased at the time of the accident was Rs. 14,203 per month. The travelling allowance of Rs. 100 is deducted and the income of the deceased for computation of compensation is taken to be Rs. 14,103 (Rs. 14,203 - Rs. 100) per month. The deceased was aged 43 years at the time of the accident and was survived by six legal representatives. In terms of the judgment of the Hon"ble Supreme Court in the case of Sarla Verma (supra), 30 per cent is to be added towards future prospects, 1/4th is to be deducted for personal expenses of the deceased and the multiplier of 14 has to be applied. Following the aforesaid judgment, 30 per cent is added towards the future prospects, 1/4th is deducted towards the personal expenses and the multiplier is reduced from 15 to 14. The Claims Tribunal has not awarded any compensation for loss to estate. However, the Claims Tribunal has awarded Rs. 10,000 towards expectancy of life of the deceased which is not a permissible head. The compensation of Rs. 10,000 towards expectancy of life is treated as compensation for loss to estate.

6. The learned counsel for respondent No. 3 submits that the income tax has to be deducted from the income of the deceased. The Accounts Department of this court has checked this aspect and has opined that the income tax limit in the year 2005-06 was Rs. 1,00,000 and after deduction of maximum saving of Rs. 1,00,000, the income of deceased would be Rs. 69,236 [Rs. 1,69,236 (Rs. 14,103 x 12)-Rs. 1,00,000] which is below the taxable limit. As such, no income tax is deducted from the income of the deceased.

7. Taking the income of the deceased as Rs. 14,103 per month, adding 30 per cent for future prospects, deducting 1/4th towards his personal expenses, applying the multiplier of 14, adding Rs. 10,000 towards loss of consortium, Rs. 10,000 for loss of love and affection, Rs. 10,000 for loss to the estate and Rs. 10,000 towards funeral expenses, the total compensation is computed to be Rs. 23,50,071 [(Rs. 14,103 + 30 per cent of Rs. 14,103) x 12 x 3/4 x 14) + Rs. 10,000 + Rs. 10,000 + Rs. 10,000 + Rs. 10,000]. The appeal is allowed and the

award amount is enhanced from Rs. 8,60,080 to Rs. 23,50,071 along with interest at the rate of 7.5 per cent per annum from the date of filing of the claim petition to the date of notice of deposit under Order 21, rule 1 of the Code of Civil Procedure.