(2010) 03 DEL CK 0155

In the Delhi High Court

Case No : Mac. App. No. 915 of 2006

Royal Sundaram Alliance Insurance APPELLANT

Vs

Santosh and Others RESPONDENT

Date of Decision : 17-03-2010

Acts Referred:

Citation : (2010) 03 DEL CK 0155

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

Bench : Single Bench

Advocate : Sakshi Mittal, for the Appellant; Sushil Kumar, for R-1 to 6, for the Respondent

Judgement

J.R. Midha, J.—The appellant has challenged the award of the learned Tribunal whereby compensation of Rs. 7,28,461/- has been awarded to claimants/ respondents No. 1 to 6. The appellant is seeking reduction of the award amount.

2. The accident dated 15th January, 2005 resulted in the death of Manoj Kumar. The deceased was survived by his widow, two minor sons, parents and unmarried sister who filed the claim petition before the learned Tribunal.

3. The deceased was aged 32 years at the time of the accident and was working as a vegetable vendor. The Claims Tribunal took minimum wages of Rs. 2,894.90 per month, added 50% towards increase in minimum wages due to inflation and rise in price index, deducted 1/4th towards personal expenses and applied the multiplier of 18 to compute the loss of dependency at Rs. 7,03,461/-. Rs. 5,000/- has been awarded towards funeral expenses and Rs. 20,000/-towards loss of love and affection. The total compensation awarded is Rs. 7,28,461/-.

4. The learned Counsel for the appellant has urged the following grounds at the time of hearing of this appeal:

(i) The multiplier be reduced from 18 to 16.

(ii) The personal expenses be increased from 1/4th to 1/3rd.

(iii) The increase in minimum wages due to inflation and rise in price index be set aside.

5. The learned Counsel for claimants/respondents No. 1 to 6 has made following submissions at the time of hearing of this appeal:

(i) The Claims Tribunal has not awarded any compensation towards loss of consortium.

(ii) The Claims Tribunal has also not awarded any compensation for loss of estate.

(iii) The Claims Tribunal has awarded interest @6% per annum against the interest rate of 7.5% per annum payable according to the judgment of the Hon?ble Supreme Court in the case of Dharampal v. U.P. State Road Transport Corporation III 2008 ACC (1) SC.

(iv) This case relates to the accident dated 15th January, 2005 and the claimants have not received the award amount except the interim award amount of Rs. 50,000/-.

6. The deceased was aged 32 years at the time of the accident and has left behind six legal representatives. 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, the appropriate multiplier is 16 and the appropriate deduction towards personal expenses is 1/4th. The Claims Tribunal has applied the multiplier of 18 and has deducted 1/4th towards personal expenses of the deceased. The Claims Tribunal has added 50% towards increase in minimum wages due to inflation and rise in price index which is in accordance with the principles laid down by this Court in the cases Kanwar Devi and Others Vs. Bansal Roadways and Others, National Insurance Company Ltd. Vs. Renu Devi and Others, and UPSRTC v. Munni Devi MAC.APP. No. 310/2007 decided on 28.07.2008. The increase in minimum wages due to inflation and rise in price index and deduction of 1/4th towards personal expenses is in accordance with the well settled principles of law mentioned above. The only point for consideration is the reduction of multiplier from 18 to 16 in terms of the judgment of the Hon?ble Supreme Court in the case of Sarla Verma (supra). However, considering that the Claims Tribunal has not awarded any compensation to the claimants towards loss of consortium, loss of estate and has awarded lower interest rate of 6% per annum and the claimants are without any compensation despite a lapse of more than five years from the date of accident, the award of the Claims Tribunal does not warrant any interference in the peculiar facts and circumstances of this case.

7. The appeal is dismissed.

8. The appellant has handed over cheque bearing No. 656894 dated 11th March, 2010 for Rs. 8,52,021/- to learned Counsel for claimants/respondents No. 1 to 6 towards entire award amount along with up to date interest after deducting the interim award amount of Rs. 50,000/-. The learned Counsel has also handed

over cheque bearing No. 660498 dated 11th March, 2010 for Rs. 5,000/- drawn in the name of respondent No. 1 towards cost imposed by this Court on 11th February, 2010. Let the said cheques be deposited with State Bank of India, Tis Hazari Branch through Mr. H.S. Rawat, Relationship Manager, Tis Hazari Branch, Tis Hazari (Mb: 09717044322) today itself and the proof of deposit be placed on record.

9. Upon the aforesaid deposit being made, the State Bank of India is directed to release 10% of the amount to respondent No. 1 by transferring the said amount to her Saving Bank Account.

10. The remaining amount be kept in fixed deposit in the following manner:

(i) Fixed deposit in respect of 10% of the award amount in the name of respondent No. 1 for a period of one year.

(ii) Fixed deposit in respect of 10% of the award amount in the name of respondent No. 4 for a period of two years.

(iii) Fixed deposit in respect of 10% of the award amount in the name of respondent No. 1 for a period of three years.

(iv) Fixed deposit in respect of 5% of the award amount in the name of respondent No. 6 for a period of four years.

(v) Fixed deposit in respect of 10% of the award amount in the name of respondent No. 5 for a period of five years.

(vi) Fixed deposit in respect of 10% of the award amount in the name of respondent No. 1 for a period of six years.

(vii) Fixed deposit in respect of 10% of the award amount in the name of respondent No. 1 for a period of seven years.

(viii) Fixed deposit in respect of 5% of the award amount in the name of respondent No. 1 for a period of eight years.

(ix) Fixed deposit in respect of 10% of the award amount in the name of respondent No. 2 till he attains the age of 20 years.

(x) Fixed deposit in respect of 10% of the award amount in the name of respondent No. 3 till he attains the age of 20 years.

11. The interest on the aforesaid fixed deposits of respondents No. 1, 2 and 3 shall be paid monthly by automatic credit of interest in the Savings Account of respondents No. 1 at Bahadurgarh. The interest on the aforesaid fixed deposits of respondents No. 4, 5 and 6 shall be paid monthly by automatic credit of interest in the Savings Account of respondents No. 4 at Bahadurgarh. Respondents No. 1 and 4 shall intimate their Saving Bank Account number and name and address of the bank to UCO Bank.

12. Withdrawal from the Saving Bank Account shall be permitted to respondents No. 1 and 4 after due verification and the Bank shall issue photo Identity Card to respondents No. 1 and 4 to facilitate identity.

13. No cheque book be issued to respondents No. 1 and 4 without the permission of this Court.

14. The Bank shall issue Fixed Deposit Pass Book instead of the FDRs to respondents No. 1 and 4 and the maturity amount of the FDRs be automatically credited to the Saving Bank Account of the beneficiary at the end of the FDR.

15. No loan, advance or withdrawal shall be allowed on the said fixed deposit receipts without the permission of this Court.

16. Half yearly statement of account be filed by the Bank in this Court.

17. On the request of respondents No. 1 and 4, the Bank shall transfer the Savings Account to any other branch according to the convenience of respondents No. 1 and 4.

18. Respondents No. 1 to 6 shall furnish all the relevant documents for opening of the Saving Bank Account and Fixed Deposit Account to Mr. H.S. Rawat, Relationship Manager, Tis Hazari Branch, Tis Hazari (Mb: 09717044322).

19. Copy of the order be given dasti to counsel for both the parties under signatures of the Court Master.

20. Copy of this order be also sent to Mr. H.S. Rawat, Relationship Manager, Tis Hazari Branch, Tis Hazari (Mb: 09717044322) through the State Bank of India, Tis Hazari Branch under the signature of Court Master.