
(2009) 08 DEL CK 0032
In the Delhi High Court
Case No : MAC. APP. No. 222 of 2009

Sajha and Others

APPELLANT

Vs

National Insurance Co. Ltd. and Others

RESPONDENT

Date of Decision : 19-08-2009

Acts Referred:

Citation : (2009) 08 DEL CK 0032

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

Bench : Single Bench

Advocate : K.D. Thakur, for R.S. Roy, for the Appellant; Pradeep Gaur, for R-1, for the Respondent

Final Decision : Allowed

Judgement

J.R. Midha, J.

CM Nos. 6413-14/2009

1. For the reasons stated in the applications and noting that the appellants have very good case on merits, the delay in filing and refilling of this appeal is condoned.

2. Both CMs stand disposed of.

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3. The appellants have challenged the award of the learned Tribunal whereby compensation of Rs. 4,80,107/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

4. The accident dated 24th April, 2000 resulted in the death of Kameshwar Rai @ Maheshwar. The deceased was survived by his widow, mother and two minor children who filed the claim petition before the learned Tribunal.

5. The deceased was aged 30 years at the time of the accident and was working

as a loader at Azadpur Sabzi Mandi. In the absence of any documentary proof of income, the learned Tribunal took the minimum wages of Rs. 2,419/- per month into consideration and deducted 1/4th towards the personal expenses of the deceased and applied the multiplier of 17 to compute the loss of dependency at Rs. 3,70,107/-. The deceased died after six days of the accident and the learned Tribunal awarded Rs. 10,000/- towards the expenditure on treatment, Rs. 10,000/- towards funeral expenses, Rs. 40,000/- towards loss of consortium and Rs. 50,000/- towards loss of love and affection. The total compensation awarded is Rs. 4,80,107/-.

6. The learned Counsel for the appellant has challenged the impugned award on the ground that the increase in minimum wages due to inflation and increase in price index has not been taken into consideration. The second ground of challenge is that no compensation has been awarded towards loss of estate.

7. It is well settled by catena of judgments of this Court in the cases of Kanwar Devi and Others Vs. Bansal Roadways and Others, , Lekh Raj and Another Vs. Suram Singh and Others, and National Insurance Company Ltd. Vs. Renu Devi and Others, that the judicial notice be taken of increase in minimum wages due to inflation and rise in price index and that the minimum wages get doubled over the period of 10 years and the average of minimum wages and its double be taken to compute the income of the deceased for computation of compensation.

8. Following the aforesaid judgments, the income of the deceased for computation of compensation is taken to be Rs. 3,628.50 [(Rs. 2,419 + Rs. 4,838)/2]. Deducting 1/4th towards personal expenses of the deceased and applying the multiplier of 17, the loss of dependency is computed to be Rs. 5,55,160.50 (Rs. 3,628.50 x 3/4 x 12 x 17). The learned Tribunal has not awarded any compensation towards loss of estate. However, the learned Tribunal has awarded Rs. 40,000/- towards loss of consortium which is on a higher side. The compensation of Rs. 40,000/- towards loss of consortium is reduced to Rs. 20,000/- and remaining Rs. 20,000/- is treated as compensation for loss of estate.

9. The appellants are entitled to total compensation of Rs. 6,65,160.50 (Rs. 5,55,160.50 + Rs. 10,000/- + Rs. 10,000/- + Rs. 20,000/- + Rs. 20,000/- + Rs. 50,000/-).

10. The appeal is allowed and the award amount is enhanced from Rs. 4,80,107/- to Rs. 6,65,160.50. The learned Tribunal has awarded the interest @9% per annum which is not disturbed on the original award amount of Rs. 4,80,107/-. However, on the enhanced amount, the appellants shall be entitled to the interest @7.5% per annum from the date of filing of the petition till realization.

11. Respondent No. 1 is directed to deposit the enhanced award amount along with interest with the Registrar General of this Court within 30 days. The order with respect to the disbursement of the award amount shall be passed on the next date of hearing after hearing the appellants.

12. Appellant No. 1 is directed to remain present in Court on the next date of hearing.

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

14. List on 7th October, 2009.