(2012) 01 DEL CK 0029

In the Delhi High Court

Case No : MAC. APP. 893 of 2011

Saroj Kumari Singh and Others — APPELLANT

Vs

Yameen and Others — RESPONDENT

Date of Decision : 25-01-2012

Acts Referred:

Citation : (2012) 01 DEL CK 0029

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

Bench : Single Bench

Advocate : Navneet Goyal, with Ms. Suman N. Rawat, for the Appellant; A.K. Soni, for R-3, for the Respondent

Final Decision : Allowed

Judgement

G. P. Mittal, J.—The Appeal is for enhancement of compensation for the death of Devashish Kumar Singh who was aged about 24 years at the time of the accident. The Motor Accident Claims Tribunal (the Claims Tribunal) by the impugned judgment dated 29.07.2011 granted a compensation of Rs. 7,72,100/-.

2. The Appellant''s grievance is that for the purpose of computation of loss of dependency, all perquisites paid to the deceased like HRA, professional charges, medical reimbursement, bonus, etc. should have been taken into consideration. Reliance is placed on National Insurance Company Ltd. Vs. Indira Srivastava and Others, .

3. It is urged that Smt. Saroj Kumari Singh, the deceased''s mother was aged about 43 years on the date of the accident and the appropriate multiplier as per Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , was ''14''. The Tribunal fell into error in selecting the multiplier of ''13''.

4. In Indira Srivastava (supra) it was held that for the purpose of computation of the loss of dependency not only take home salary but also other allowances and perks which would have benefited the entire family and prospective loss of future earning is to be considered.

5. I am in agreement with the contention raised on behalf of the Appellants. As per the Salary Certificate Ex.PW-5/B, except for the conveyance charges of Rs. 10,800/- the entire salary was for the benefit of the deceased and his family. The deceased''s income therefore, should have been considered as Rs. 1,64,200/- (Rs. 1,75,000/- - 10,800/-) as against Rs. 1,13,400/- per annum as considered by the Tribunal. Since the deceased was in the job just for a few months and in the absence of any evidence as to the future prospects, the Appellants would not be entitled to any future prospects.

6. On an income of Rs. 1,64,200/- there would be liability of income tax amounting to Rs. 2200/- for the Assessment Year 2008-09. The annual income of the deceased comes to Rs. 1,62,000/- (Rs. 1,64,200/- - 2200/-).

7. The loss of dependency comes to Rs. 11,34,000/- (1,62,000/- - 1/2 x 14).

8. Normally, the Claims Tribunal and Courts award compensation of Rs. 25,000/- towards the loss of love and affection. The Supreme Court in Sunil Sharma and Others Vs. Bachitar Singh and Others, and in Baby Radhika Gupta and Others Vs. Oriental Insurance Co. Ltd. and Others, granted only Rs. 25,000/- (in total to all the claimants) under the head of loss of love and affection.

9. Thus, the amount of Rs. 20,000/- awarded under loss of love and affection needs to be enhanced to Rs. 25,000/-. Funeral expenses is also enhanced to Rs. 10,000/- from Rs. 5,000/- granted by the Tribunal.

10. The compensation is reassessed as under:-

1.

Loss of Dependency

Rs. 11,34,000/-

2.

Loss of Love and Affection

Rs. 25,000/-

3.

Loss of Estate

Rs. 10,000/-

4.

Funeral Expenses & Transportation Charges

Rs. 10,000/-

Total

Rs. 11,79,000/-

11. The overall compensation is enhanced from Rs. 7,72,100/- to Rs. 11,79,000/-. The enhanced amount of Rs. 4,06,900/- shall carry interest @ 7.5 % per annum from the date of the filing of the petition till the date of payment.

12. Respondent No.3 Reliance General Insurance Company Limited is directed to deposit the enhanced amount along with the upto date interest within 30 days with the Registrar General of this Court, which shall be payable to the First Appellant.

13. The amount so deposited shall be held in fixed deposits for a period of three years with UCO Bank, Delhi High Court Branch, New Delhi.

14. The Appeal is allowed in above terms.

15. Pending applications also stand disposed of.

