

(2011) 09 DEL CK 0485

In the Delhi High Court

Case No : Mac Appeal No. 795 of 2011

Sh. Kamlesh Singh Yadav and Another

APPELLANT

Vs

Sh. Sukaram Pal Singh and Others

RESPONDENT

Date of Decision : 02-09-2011

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2011) 09 DEL CK 0485

Hon'ble Judges : Indermeet Kaur, J

Bench : Single Bench

Advocate : Manish Maini, for the Appellant;

Final Decision : Dismissed

Judgement

Indermeet Kaur, J.—The Award impugned is the Award dated 19.05.2011 whereby a total compensation in the sum of Rs. 3,75,000/- had been awarded in favour of the claimants of the child victim. This Award has been impugned; contention before this Court is that the notional income of Rs. 15,000/- per annum which had been taken into account was on a wrong premise; adhering to the second Schedule of the Motor Vehicle Act, 1963 (MVA) which was notified in the year 1994 being more than 1- 1/2 decades old, consideration of inflation and price rise not having been considered and by applying the notional income of Rs. 15,000/- per annum, the Tribunal has committed an error. Learned Counsel for the Appellants to support this submission has placed reliance upon a judgment of Reema and Another Vs. United India Insurance Co. Ltd. and Others, Reema and Anr. v. United India Insurance Company Ltd. and Ors.

2. Record shows that the victim in this case was a 9 years old child; he had died in a road accident which had occurred on 15.03.2008. The child was studying in the first class in Holy Angel School; he was the only child of his parents. Claim petition had been filed u/s 166 of the MVA. The Tribunal after oral and documentary evidence and relying upon the proposition laid down in R.K. Malik and Another Vs. Kiran Pal and Others, had noted that in the case of child victim,

Rs. 15,000/- per annum has to be taken as the notional income upon which multiplier of 15 was applied; loss of income was thus calculated @ Rs. 2,25,000/-; this was under the head of "pecuniary damages"; a sum of Rs. 1,50,000/- had been awarded under the head of "non-pecuniary damages" i.e. Rs. 75,000/- for future prospects and another sum of Rs. 75,000/- for pain and sufferings which had been suffered by the claimants of the victim; this was also in view of the ratio of the judgment in the case of R.K. Malik (Supra). There is no fault in this finding of the Tribunal; it in no manner suffers from any infirmity.

3. The judgment relied upon by learned Counsel for the Appellants is totally misplaced; this was a case where deceased victim was 34 years of age and was even otherwise on the issue of the correct multiplier to be applied. This Court is dealing with the case of child victim. The judgment of R.K. Malik (Supra) has been consistently followed by the Benches of this Court and lastly in the case of National Insurance Company Limited v. Farzana in MAC APPEAL No. 13/2007 decided on 14.07.2009. Appeal has No. merit.

4. Dismissed.