

(2014) 03 DEL CK 0194
In the Delhi High Court
Case No : MAC. App. 42/2007

Shail Bala Gupta and Another

APPELLANT

Vs

Mahender Prasad Yadav and Others

RESPONDENT

Date of Decision : 25-03-2014

Acts Referred:

Citation : (2014) 03 DEL CK 0194

Hon'ble Judges : Suresh Kait, J

Bench : Single Bench

Advocate : Arpita, Advocate for the Appellant; Sonia Sharma, Advocate for Respondent No. 3/Insurance Company, Advocate for the Respondent

Final Decision : Allowed

Judgement

Suresh Kait, J.—The present appeal is preferred against the award dated 28.09.2006, whereby the learned Tribunal granted compensation for an amount of Rs. 18,01,000/- with interest at the rate of 6% per annum from the date of filing of the petition, i.e., 12.01.2004 till realization of the amount. Vide the present appeal, the appellants/claimants are seeking enhancement of the compensation amount as noted above.

2. Ms. Arpita, learned counsel appearing on behalf of the appellants submits that the accident had taken place on 01.10.2003 and the deceased Brij Mohan Gupta was expired on 25.10.2003. On the date of the accident, he was 49 years 7 months of age. He was a Senior Manager in the Punjab National Bank and was drawing a handsome salary.

3. Learned counsel further submits that taking into consideration all the facts, the learned Tribunal had assessed the monthly salary of the deceased as Rs. 27,502/- and accordingly, awarded the compensation.

4. Learned counsel submits that the appellant was less than 50 years on the date of the accident, despite, the learned Tribunal had applied the multiplier of 11 instead of 13.

5. On the issue of multiplier, the learned counsel has relied upon a case of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , wherein it is held that for the age group of 46 to 50 years, the multiplier of 13 would be applicable.

6. Learned counsel further submits that the appellants/claimants have proved that the deceased was a Senior Manager in Punjab National Bank. His salary was assessed by the learned Tribunal as Rs. 27,502/- and he was in permanent employment. In addition to yearly increments, there were promotional avenues. Despite that the learned Tribunal had not added any amount in his actual income towards future prospects.

7. To support her submissions, learned counsel has relied upon the cases of Rajesh and Others Vs. Rajbir Singh and Others, .

8. On the other hand, Ms. Sonia Sharma, learned counsel appearing on behalf of the respondent No. 3/Insurance Company submits that at the time of the accident, the deceased was aged 49 years 7 months, i.e., nearing 50 years, therefore, considering the same into view, the learned Tribunal had applied the multiplier of 11.

9. Moreover, as per the case of General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, , multiplier of 10 was applicable for the age group of 46 to 50 years and in view of U.P. State Road Transport Corporation and Others Vs. Trilok Chandra and Others, , multiplier of 12 was applicable for the age group of 46 to 50 years. Though, thereafter, this issue has been clarified further in the case of Sarla Verma's (supra) and it is held that for the age group of 46 to 50 years, the appropriate multiplier would be 13. Thus, keeping the view taken in all the cases mentioned above, the learned Tribunal had rightly applied the multiplier as 11.

10. Learned counsel further submits that PW 1, wife of the deceased, in her cross-examination stated that the promotion of her husband depends upon his performance which is to be assessed by the Department. She also deposed that the promotion is not a matter of right. Keeping in view the aforesaid facts, the learned Tribunal had not added any amount in his actual income towards future prospects.

11. I have heard the learned counsel for the parties and have perused the record.

12. Undisputedly, the age of the deceased was 49 years 7 months, however, in any case, less than 50 years. Keeping into view the dictums of Sarla Verma's (supra) and Rajesh & Ors., (supra), the appropriate multiplier would be 13 instead of 11. Therefore, I apply the multiplier of 13 accordingly.

13. As the issue of future prospects is concerned, the deceased was working as a Senior Manager in Punjab National Bank. He was drawing a sum of Rs. 27,502/- per month and was in permanent job. He was entitled for yearly increments in addition to promotion to the higher rank. Thus, in any case, his salary had to be

increased.

14. Therefore, keeping in mind the age of the deceased and the aforesaid dictums of Sarla Verma's and Rajesh & Ors., I add 30% in the actual income of the deceased towards future prospects.

15. Accordingly, the compensation on account of dependency comes to Rs. 21,90,240/-.

16. Resultantly, an amount of Rs. 4,19,240/- is enhanced (Rs. 21,90,240/- -Rs. 17,71,000/-).

17. The enhanced amount shall carry interest at the rate of 6% per annum from the date of filing of the appeal till realization of the amount.

18. Accordingly, the respondent No. 3/Insurance Company is directed to deposit the enhanced amount with up-to-date interest with the Registrar General of this Court within a period of six weeks from today, failing which, appellants/claimants shall be entitled for penal interest at the rate of 12% per annum on account of delayed payment.

19. On deposit, the Registrar General is directed to release the amount in favour of the appellants/claimants proportionally in terms of the award dated 28.09.2006 passed by the learned Tribunal. The appeal is allowed, accordingly.