

(2010) 01 DEL CK 0346

In the Delhi High Court

Case No : M.A.C. Appeal No. 445 of 2009

Shakuntla and Another

APPELLANT

Vs

Ravinder Kumar and Others

RESPONDENT

Date of Decision : 13-01-2010

Acts Referred:

Citation : (2010) ACJ 1599 : (2011) 2 TAC 601

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

Bench : Single Bench

Advocate : Navneet Goyal, for the Appellant; Kanwal Chaudhary, for the Respondent

Final Decision : Allowed

Judgement

J.R. Midha, J.—The appellants have challenged the award of the learned Tribunal whereby compensation of Rs. 3,51,240 has been awarded to the appellants. The appellants seek the enhancement of the award amount.

2. The accident dated 9.11.2006 resulted in the death of Narender. The deceased was survived by his parents who filed the claim petition before the learned Tribunal.

3. The deceased was aged 18 years at the time of the accident and was working as a tailor earning Rs. 150 to Rs. 200 per day. However, in the absence of sufficient proof, the learned Tribunal took the minimum wages of Rs. 3,736 into consideration, deducted 1/2 for personal expenses of the deceased and applied the multiplier of 15 to compute the loss of dependency at Rs. 3,36,240. Rs. 10,000 has been awarded towards loss to estate and Rs. 5,000 towards the funeral expenses. The total compensation awarded is Rs. 3,51,240.

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

(i) The increase in minimum wages due to inflation and increase in price index

has not been taken into consideration by the learned Tribunal.

(ii) The compensation for loss of love and affection be awarded.

5. The learned Counsel for respondent No. 3 submits that the learned Tribunal has correctly computed the compensation and no enhancement is warranted.

6. The learned Counsel for respondent No. 3 seeks permission to file the written submissions. The oral arguments have been heard and the written submissions are not warranted.

7. The learned Counsel for respondent No. 3 submits that respondent No. 3 has instructed the counsel to file written submissions in all the cases.

8. The written submissions are taken on record where the court considers it necessary in the facts and circumstances of the case but respondent No. 3 cannot insist to file written submissions in every case.

9. The learned Counsel for respondent No. 3 may properly advise to respondent No. 3 in this regard that the written submissions shall not be taken on record in every case.

10. It is well settled by catena of judgments of this Court in the cases of Kanwar Devi and Others Vs. Bansal Roadways and Others, ; National Insurance Company Ltd. Vs. Renu Devi and Others, and U.P. State Road Trans. Corporation v. Munni Devi M.A.C. Appeal No. 310 of 2007; decided on 28.7.2008 that the court should take judicial notice of increase in minimum wages to meet the increase in price index and inflation rate. This Court has taken the view that the minimum wages get doubled over the period of 10 years and increase in minimum wages is not akin to future prospects.

11. Following the aforesaid judgments, income of the deceased for computation of compensation is taken to be Rs. 5,604 [(Rs. 3,736 + Rs. 7,472) + 2].

12. Learned Tribunal has not awarded any compensation towards loss of love and affection. Rs. 25,000 is awarded to the appellants for loss of love and affection.

13. Taking the income of the deceased to be Rs. 5,604 deducting 1/2 towards the personal expenses, applying the multiplier of 15, adding Rs. 10,000 towards loss to estate, Rs. 5,000 towards funeral expenses and Rs. 25,000 towards loss of love and affection, the total compensation is computed to be Rs. 5,44,360 [(Rs. 5,604 x 12 x 72 x 15) + Rs. 10,000 + Rs. 5,000 + Rs. 25,000].

14. The appeal is allowed and the award amount is enhanced from Rs. 3,51,240 to Rs. 5,44,360 along with interest at the rate of 7.5 per cent per annum from the date of filing of the petition till the date of payment.