(2009) 11 DEL CK 0137

In the Delhi High Court

Case No : Mac. App. No. 9 of 2008

Shanti Chauhan and Others APPELLANT

Vs

Jamshed Khan and Others RESPONDENT

Date of Decision : 11-11-2009

Acts Referred:

Citation : (2009) 7 ILR Delhi 674

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

Bench : Single Bench

Advocate : Abhishek Kumar, for the Appellant; Kaustush Shukla, for Shantha Devi Raman, for R-3, for the Respondent

Judgement

J.R. Midha, J.—The appellants have challenged the award of the learned Tribunal whereby compensation of Rs. 8,43,506/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

2. The accident dated 14th June, 2005 resulted in the death of Munender Pal Singh Chauhan. The deceased was survived by his widow, two sons and a daughter who filed the claim petition before the learned Tribunal.

3. The deceased was aged 53 years at the time of the accident and was working as a Government Contractor for the last 25 years. The deceased was the proprietor of M/s Chauhan Enterprises and his income at the time of the accident as per the last Income Tax Return was Rs. 1,58,000/- per annum. The deceased had two Government contracts for Rs. 3,74,149/- and Rs. 9,93,383/- at the time of the accident. The appellants placed the Income Tax Returns for the last four years before the learned Tribunal. The income for the last four years had been Rs. 1,24,499/-, Rs. 1,35,515/-, Rs. 1,40,170 and Rs. 1,38,817/- respectively. The income of the deceased has been steadily increasing. However, the learned Tribunal took the average income of the last four years at Rs. 1,34,750/-, 1/3rd was deducted towards the personal expenses of the deceased and the multiplier of 9 was applied to compute the loss of dependency at Rs. 8,08,506/-. Rs.

10,000/- was awarded towards funeral expenses and Rs. 25,000/- towards loss of love and affection. The total compensation awarded is Rs. 8,43,506/-.

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

(i) The income of the deceased be taken to be Rs. 1,38,817/- per annum according to the last Income Tax Return.

(ii) The future prospects be taken into consideration.

(iii) The personal expenses of the deceased be reduced from 1/3rd to 1/4th.

(iv) The multiplier be enhanced from 9 to 11.

(v) The compensation be awarded for loss of consortium and loss of estate.

(vi) The rate of interest be enhanced from 6% per annum to 7.5% per annum.

5. The Hon?ble Supreme Court in the recent judgment of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, has held that the personal expenses of the deceased to be 1/4th where the deceased has left behind 4 to 6 dependents. The Hon?ble Supreme Court has further held that the future prospects shall be taken into consideration only in respect of deceased with a permanent job with less than 50 years of age. The Hon?ble Supreme Court has also held the appropriate multiplier at the age of 53 to be 11.

6. Following the aforesaid judgment of the Hon?ble Supreme Court, the personal expenses of the deceased are reduced from 1/3rd to 1/4th, claim for future prospects is rejected and the multiplier is enhanced from 9 to 11. The income of the deceased at the time of the accident is taken at Rs. 1,38,817/- as per the last Income Tax Return instead of the average of last four years.

7. Taking the income of the deceased to be Rs. 1,38,817/-, deducting 1/4th towards the personal expenses and applying the multiplier of 11, the loss of dependency is computed to be Rs. 11,45,240/- (Rs. 1,38,817 x 3/4 x 11). Rs. 10,000/- is awarded for loss of consortium and Rs. 10,000/- is awarded for loss of estate. The total compensation is computed to be Rs. 12,00,240/- (Rs.11,45,240 + Rs. 10,000 + Rs. 25,000 + Rs. 10,000 + Rs. 10,000).

8. The appeal is allowed and the award amount is enhanced from Rs. 8,43,506/- to Rs. 12,00,240/- along with interest @7.5% per annum from the date of filing of the petition till realization.

9. The enhanced award amount be deposited by respondent No. 3 with UCO Bank, Delhi High Court Branch A/c Shanti Chauhan within 30 days by means of a cheque drawn in the name of UCO Bank A/c Shanti Chauhan and be handed over to Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400).

10. The order with respect to the disbursement of award amount shall be passed

after examining the appellants who are directed to remain present in the Court on the next date of hearing.

11. List on 18th December, 2009.

12. Copy of this order be given ?Dasti? to learned Counsel for both the parties under signature of Court Master.