
(2009) 02 DEL CK 0217

In the Delhi High Court

Case No : MAC App. No. 77 of 2009

Shashi Sharma and Others

APPELLANT

Vs

Ravi Kumar and Others

RESPONDENT

Date of Decision : 17-02-2009

Acts Referred:

Citation : (2009) 02 DEL CK 0217

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

Bench : Single Bench

Advocate : Manish Maini, for the Appellant; Ram N. Sharma, for R-3, for the Respondent

Judgement

J.R. Midha, J.

CM No. 1573/2009 (Delay)

1. For the reasons stated in the application, the delay in refiling of the appeal is condoned.

2. The application stands disposed of.

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3. This case relates to the death of Ashok Sharma aged 50 years in a road accident on 1st September, 2004. The deceased was working as clerk with the Ministry of External Affairs drawing a salary of Rs. 10,000/- per month. The Learned Trial Court took the salary of the deceased at Rs. 15,606/- after taking the future prospects into consideration. 1/3rd was deducted towards the personal expenses of the deceased and the multiplier of 11 was applied. Loss of dependency was assessed at Rs. 13,73,328/-. Learned Tribunal awarded Rs. 15,000/- towards loss of estate, Rs. 50,000/- towards funeral expenses, Rs. 5,000/- towards transportation expenses of the dead body, Rs. 25,000/- towards the loss of love and affection and Rs. 10,000/- for loss of consortium. The total compensation awarded is Rs. 14,23,328/-.

4. The appellant has challenged the impugned award on two grounds. First that the personal expenses of the deceased should have been deducted at the rate of 1/6th of his income considering that the deceased has left behind five legal representatives, namely, his wife, parents and two daughters. The second ground is that the low amount has been awarded for loss of consortium. Learned Counsel refers to the recent judgment of Madras High Court in the case of United India Insurance Co. Ltd. v. Sulochana and Ors. III (2007) ACC 50 (DB) where loss of consortium of Rs. 50,000/- has been awarded.

5. Considering the recent judgments of the Hon'ble Supreme Court, I am of the view that except for low amount of compensation for loss of consortium, the compensation awarded is just and fair.

6. I do not find any infirmity in the deduction of 1/3rd personal expenses of the deceased for computing the compensation when the future prospects have been taken into consideration by taking the income of the deceased at Rs. 15,606/- per month. However, Learned Tribunal has awarded low amount for loss of consortium. The loss of consortium is a non-pecuniary loss and there is need to maintain the uniformity so far as the non-pecuniary damages are concerned. I, therefore, enhance the compensation for loss of consortium from Rs. 10,000/- to Rs. 50,000/-.

7. The appeal is partially allowed. Respondent No. 3 is directed to deposit the enhanced amount of Rs. 40,000/- with the Learned Tribunal within 30 days.

8. Since there is the delay in refiling of this appeal, no interest is awarded on the enhanced amount of Rs. 40,000/-.

9. No costs.