(2012) 05 DEL CK 0090

In the Delhi High Court

Case No : MAC. APP. 91 of 2005

Sheela Devi and Anr APPELLANT

Vs

Naib Singh and Others RESPONDENT

Date of Decision : 11-05-2012

Acts Referred:

Citation : (2012) 05 DEL CK 0090

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

Bench : Single Bench

Advocate : Manu Luv Shahalia, for the Appellant;

Judgement

J.R. Midha

1. The appellants have challenged the award of the Claims Tribunal whereby compensation of Rs. 2,61,900/-. The appellants seek enhancement of the award amount. The accident dated 24th January, 2002 resulted in the death of Vinod Kumar @ Vicky. The deceased was survived by his parents who filed the claim petition before the Claims Tribunal. The deceased was aged 21 years at the time of the accident and was self-employed in the business of manufacturing of photo album. The appellant pleaded the income of the deceased as Rs. 4,000/- per month. However, the Claims Tribunal took the minimum wages of Rs. 2,600/- per month in respect of the unskilled worker and added 50% towards the future prospects, deducted 1/2 towards personal expenses and applying the multiplier of 13 to compute the loss of dependency at Rs. 3,04,200/-. The Claims Tribunal awarded Rs. 40,000/- towards loss of love and affection and Rs. 5,000/- towards funeral expenses. The total compensation awarded is Rs. 2,61,900/-.

2. The learned counsel for the appellant has made following submissions at the time of hearing of this appeal:-

(i) The income of the deceased be taken to be Rs. 4,000/- per month and the future prospects of 50% be also added thereon.

(ii) The multiplier be enhanced from 13 to 15.

(iii) The compensation be awarded for loss of estate.

(iv) The rate of interest be enhanced from 6% per annum to 9% per annum.

3. The deceased was a self-employed in the business of making photo album. According to the appellants, the deceased was earning `4,000/- per month. However there is no documentary proof of income. The minimum wages for a skilled worker at the relevant time was `3,016/- and, therefore, the income of the deceased is assumed to be Rs. 3,000/- per month. The deceased was self-employed and in terms of the judgment of the Supreme Court in Santosh Devi Vs. National Insurance Company Ltd. and Others, the appellants are entitled to future prospects. 50% is added towards the future prospects. The deceased was aged 21 years at the time of the accident and was survived by his parents aged 40 and 45 years. Taking the age of the mother into consideration, the appropriate multiplier according to the judgment of the Supreme Court in the case of Sarla Verma v. Delhi Transport Corporation, (2009) 6 SCC 121 is 15. The multiplier is, therefore, enhanced from 13 to 15. The Claims Tribunal has not awarded any compensation for loss of estate. Rs. 10,000/- is awarded for loss of estate.

4. Taking the income of the deceased to be Rs. 3,000/- per month, adding 50% towards the future prospects, deducting 50% towards his personal expenses and applying the multiplier of 15, the loss of dependency is computed to be Rs. 4,05,000/-. Adding Rs. 40,000/- towards loss of love and affection, Rs. 10,000/- towards loss of estate and Rs. 5,000/- towards funeral expenses, the total compensation computed to be Rs. 4,60,000/-.

5. The Claims Tribunal has held the deceased to be contributory negligent to the extent of 25%. Taking the facts and circumstances of this case into consideration, the finding of contributory negligence to the extent of 25% is upheld. The aforesaid compensation is, therefore, reduced by 25% and the claimants are entitled to compensation of Rs. 3,03,750/-.

6. The Claims Tribunal has awarded interest @6% per annum which is on a lower side. The Apex Court has awarded interest @ 9% per annum in the recent case of MCD v. Association of Victims of Uphaar Tragedy, AIR 2012 SC 100. Following the judgment of the Apex Court, the rate of interest is enhanced from 6% per annum to 9% per annum.

7. The appeal is allowed and the award amount is enhanced from Rs. 2,61,900/- to Rs. 3,03,750/- along with interest @ 9% per annum from the date of filing of the petition till realization. The enhanced award amount along with interest be deposited by respondent No. 3 with UCO Bank, Delhi High Court Branch by means of cheque drawn in the name of UCO Bank A/c Sheela.

8. Upon the aforesaid amount being deposited, the UCO Bank is directed to release 50% of the amount to the appellants by transferring the same to their

Saving Bank Account. The remaining amount be kept in fixed deposit in the name of the appellants for a period of two years.

9. The interest on the aforesaid fixed deposits shall be paid monthly by automatic credit of interest in the respective Savings Account of the beneficiaries.

10. Withdrawal from the aforesaid account shall be permitted to the beneficiaries after due verification and the Bank shall issue photo Identity Card to the beneficiaries to facilitate identity.

11. No cheque book be issued to the beneficiaries without the permission of this Court.

12. The original fixed deposit receipt shall be retained by the Bank in the safe custody. However, the original Pass Book shall be given to the beneficiaries along with the photocopy of the FD Rs. Upon the expiry of the period of each FDR, the Bank shall automatically credit the maturity amount in the Savings Account of the beneficiaries.

13. No loan, advance or withdrawal shall be allowed on the said fixed deposit receipts without the permission of this Court.

14. Half yearly statement of account be filed by the Bank in this Court 15. On the request of the beneficiaries, Bank shall transfer the Savings Account to any other branch according to their convenience.

16. The beneficiaries shall furnish all the relevant documents for opening of the Saving Bank Account and Fixed Deposit Account to Mr. M.S. Rao, AGM, UCO Bank, Delhi High Court Branch, New Delhi (Mobile No. 09871129345). Copy of this judgment be sent to Mr. M.S. Rao, AGM, UCO Bank, Delhi High Court Branch, New Delhi (Mobile No. 09871129345). Copy of this judgment be sent to respondent No. 3.

