

(1987) 04 DEL CK 0006
In the Delhi High Court

Shish Ram and Others

APPELLANT

Vs

Jai Chand and Another

RESPONDENT

Date of Decision : 27-04-1987

Acts Referred:

Citation : (1987) 1 ACC 566

Hon'ble Judges : S.B. Wad, J

Bench : Single Bench

Judgement

S.B. Wad, J.—This appeal is filed by the father of the deceased Shish Ram, mother Jaimala Devi and sister Km. Saraswati, as the Tribunal had dismissed their claim petition. While dismissing the petition the Tribunal had also worked out as to how much will be dependency of the claimants on the deceased. The Tribunal had come to the conclusion that Rs. 24,900/- would be the adequate compensation, in this case. For this purpose the Tribunal had assumed that the deceased would have earned Rs. 600/- per month after three years of this service. The Tribunal had also accepted ten as multiplier considering the fact that the father was 65 years and mother was 55 years of age. The Tribunal rejected the claim on the ground that it was not proved by the appellants 1 and 2 that they were the parents of the deceased, although no issue was claimed by the respondent or framed by the Tribunal.

2. Since it is an accident case in which a person had died and in spite of the fact that there was no issue to that effect the Tribunal had assumed that the parentage is not proved. I had xxx directed the parties to lead evidence before the Deputy Registrar of this Court. The evidence was recorded before the Deputy Registrar. I have gone through the evidence" and I am satisfied that appellants 1 and 2 are the living parents of the deceased.

3. The counsel for the appellants submits that the Tribunal has erred in assuming that the x deceased would have earned Rs. 600/- per month after three years after he started serving. The deceased completed his training in the I.T.I. and was issued a certificate in July, 1980. It is stated in the evidence that he was a

brilliant student and had stood first in the institution where he had studied. The counsel submits that considering the fact that even a Peon, who is an unskilled worker, was drawing Rs. 1000/- per month in the Government service in 1980, the Tribunal ought to have considered the monthly earning of the deceased at much higher rate. The counsel for the respondents submits that he must go by the pleadings and in the claim petition it was stated that the deceased was earning Rs. 350/- per month. However, from the pleadings it is found that it is not correct. He was earning Rs. 350/- per month when he had completed the course and he was likely to get a job of Rs. 700/- per month thereafter. Considering all aspects of the matter and particularly in view of the fact that the deceased had undergone the technical training I am inclined to believe that the figure of Rs. 1,000/- per month, as an average for the period of ten years, would be the just and proper remuneration, in this case. I am in agreement with the Tribunal that considering the age of parents ten was the proper multiplier. The dependency of the parents has to be worked out on facts of each case. This fact cannot be ignored that the deceased had three elder brothers who were all earning and would naturally be contributing for maintenance and other requirements of the parents. The deceased was 22 years old at the time of the death. Considering the fact that he would have got married after he settled down in life naturally the contribution from the deceased to his parents would have decreased. Keeping all the facts in mind it will be safe to assume that as an average Rs. 400/- per month would have been contributed by the deceased to his family, that is, for the parents and the sister. Worked out on this basis and considering all these aspects of the matter the claimants are entitled to the compensation of Rs. 48,000/-. They are also entitled to 9 per cent simple interest on the said amount from the date of the application till the date of payment. The appeal is allowed. However, there will be no order as to costs. The cheque for the said amount of the principal and the interest will be deposited by the Insurance Co. with the Registrar of this court within three months from today. The Registrar shall disburse the amount to the claimants after giving due notices to them.

4. Mr. R.S. Chhabra, Deputy Registrar of this Court was appointed as a Commissioner for recording the evidence in this case. The respondent: Insurance Company shall pay Rs. 300/- towards the fees of the Commissioner to him. The appellants shall also pay a sum of Rs. 300/- to him.