

(2012) 10 DEL CK 0029
In the Delhi High Court
Case No : MAC. APP. 1087 of 2012

Smt. Bishekha Devi and Another	Vs	APPELLANT
Mohd. AFSAR and Others		RESPONDENT

Date of Decision : 30-10-2012

Acts Referred:

Citation : (2012) 10 DEL CK 0029

Hon'ble Judges : G.P. Mittal, J

Bench : Single Bench

Advocate : O.P. Mannie, for the Appellant; Suman Bagga, for R-3, for the Respondent

Final Decision : Allowed

Judgement

G.P. Mittal, J.

CM APPL. 17279/2012 (delay)

The delay of one day in filing the Appeal is condoned. The Application is allowed.

MAC. APP. 1087/2012

1. The Appeal is for enhancement of compensation of Rs. 8,34,000/- awarded by the Motor Accident Claims Tribunal (the Claims Tribunal) in favour of the Appellants, the parents of the deceased Rahul Kumar, who died in a motor vehicle accident which occurred on 20.11.2010. During inquiry before the Claims Tribunal it was claimed that the deceased was working with a private company Achchi Paushak Emporium and was getting a salary of Rs. 12,000/- per month. The Claims Tribunal accepted the deceased's income as Rs. 12,000/- per month, deducted 50% towards personal and living expenses and applied the multiplier of 11 to compute the loss of dependency.

2. The following contentions are raised on behalf of the Appellants:-

(i) The deceased was working with Achchi Paushak Emporium for the last 11/2

years. The Court should have granted future prospects by making 50% addition in the income. (ii) The Claims Tribunal took the average age of the parents to apply the multiplier. As per Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, the multiplier is to be selected as per the age of the deceased's mother.

3. On the other hand, learned counsel for the Respondent Insurance Company states that the compensation awarded is just and reasonable.

4. During the course of arguments it was conceded that Achchi Paushak Emporium where the deceased was employed was a girl's Boutique where 3-4 persons were working. Admittedly, no evidence was produced by the Appellants to show that the deceased had good future prospects in Achchi Paushak Emporium. In the absence of any evidence with regard to good future prospects, addition of 50% could not have been made.

5. On the other hand, the Claims Tribunal ought to have made an addition of 30% towards inflation on the basis of the judgment of the Supreme Court in Santosh Devi Vs. National Insurance Company Ltd. and Others, .

6. As per the Ration Card Ex. PW-1/2, the deceased's mother was aged 42 years on 01.01.2002. Thus, on the date of accident, i.e. 20.11.2010 the deceased's mother was about 50 years and 11 months. Since her age is near 51 years, the appropriate multiplier would be 11 only which has been applied by the Claims Tribunal.

7. The loss of dependency thus comes to Rs. 10,29,600/- (12,000/- + 30% x 12 x 1/2 x 11) as against Rs. 7,92,000/- awarded by the Claims Tribunal.

8. The compensation is thus enhanced by Rs. 2,37,600/-.

9. This accident took place in the year 2010 and the Claim Petition was decided in May, 2012. The interest rate on long term deposits are in the vicinity of 9% per annum. Thus, the award of interest @ 9% per annum was just and reasonable. Similar view was taken by this Court in Dhaneshwari & Another v. Tajeshwar Singh & Others, MAC. APP 997/2011 decided on 19.3.2012.

10. Thus, on the enhanced compensation the Appellants would be entitled to interest @ 9% per annum from the date of filing of the Claim Petition till its payment.

11. The enhanced compensation of Rs. 2,37,600/- along with interest shall be deposited with the Claims Tribunal within six weeks and shall be equally apportioned amongst the Appellants.

12. Seventy five percent of the compensation awarded shall be held in fixed deposit for a period of three years; rest shall be released to them.

13. The Appeal is allowed in above terms.

14. Deficiency, if any, in the Court fees shall be made up within four weeks.

Pending Applications also stand disposed of.