

(2001) 04 DEL CK 0089

In the Delhi High Court

Case No : LPA 53 of 1989

Smt. Harbans Kaur and others

APPELLANT

Vs

Sh. Jai Bhagwan and others

RESPONDENT

Date of Decision : 30-04-2001

Acts Referred:

Citation : (2001) 2 ACC 490 : (2002) ACJ 1168 : (2001) 5 AD 574 : (2001) 2 AnWR 530 : (2001) 92 DLT 342

Hon'ble Judges : M.S.A. Siddiqui, J;B.A. Khan, J

Bench : Division Bench

Advocate : Mr. O.P. Goyal, for the Appellant; Mr. Vikas Jha, for the Respondent

Judgement

Khan, (J.

1. When this appeal was being considered it was noticed that MACT and First Appellate Court had awarded paltry compensation amount of Rs. 12,000/- and Rs. 15,000/- respectively to appellants on the death of a 20 year old Gurcharan Singh, a student of M.A., who died in a road accident on 3.8.1971

2. Accordingly New India Assurance Company"s counsel Mr. B.R. Sabharwal was directed notice and required to obtain instructions for an appropriate enhancement of compensation. He appeared on 8.2.2001 and sought time to explore such possibility. But he failed to turn up today leaving us with no option but to decide the appeal on merit.

3. We have examined the Tribunal award and also the First Appellate Court judgment and find that both courts had adopted a novel method of assessing the dependency. Tribunal had fixed it at Rs. 150/- p.m. for first 5 years and Rs. 50/- p.m. for subsequent 5 years to award compensation of Rs. 12,000/- by taking the survival period of deceased at 10 years. First Appellate Court had done no better except to raise it from Rs. 50/- to Rs. 100/- p.m. for later 5 years besides awarding 9% interest to award a compensation of Rs. 15,000/-.

4. The approach adopted by the two courts left much to be desired to say the least and it is surprising that both had ignored the evidence on record in the process.

5. It transpires that claimants had sought to prove that deceased was offered a job of Research Officer for Rs. 600/- p.m. to start with perhaps in a bid to show that it be taken as his income. Even if this was taken to be his initial income and on third deducted out of this for his personal expense, the annual dependency would work out to be Rs. 4800/- and applying a multiplier of 18 to it, the amount of compensation would come to Rs. 86,400/- and this would be the least which was liable to be awarded to claimants. But they deserved to be awarded more because it was obligatory on the court to award just and reasonable compensation to them.

6. Mr. Goyal has cited Supreme Court judgment in Shanti Bai's case 1998 ACJ 898 awarding Rs. 1.5 lacs to claimants of a labour and the judgments of this court in All India Lawyers Union Vs. Union Of India and Others, awarding Rs. 2 lacs to the parents of a student who was run over by a vehicle near his school and Kapila Uppal Vs. Kishan Dutt, rendered by one of us (Siddiqui, J) granting Rs. 2.69 lacs to parents of a MBBS student to urge that appellants in the present case also deserved to be awarded more.

7. We see substance in the submissions made. In Shanti Bai's case Supreme Court assumed that the deceased labour could have earned at least Rs. 10 a day as wages and awarded Rs. 1.5 lacs to his claimants on that basis. The present case stands on a higher footing because deceased was a student of M.A. way back in 1971 when employment avenues were available. He was offered a post of Research Officer even as student of M.A. and there was a likelihood of his suitably being employed on his qualifying M.A. Therefore, it could be safely assumed that he could have been employed on an average salary of Rs. 1000/- that time and could have earned more as he would have advanced in his career. Therefore, even if his average income was taken at Rs. 1500/- a month and 1/3rd of it was deducted for his personal expense, dependency would be Rs. 1000/- p.m. and Rs. 12,000/- p.a. Considering his age and that of his parents a multiplier of 18 could be appropriately applied to this to work out the compensation amount to Rs. 2.16 lacs.

8. We allow this appeal on this premise and hold appellants entitled to compensation of Rs. 2.16 lacs. No interest shall, however, accrue on the enhanced amount. Respondent Insurance Co. is directed to pay this amount after adjusting the amount already paid to appellants within 4 months from receipt of this order. J.R.(J) is directed to send a copy of this order free of cost to appellants as also to Insurance Company to seek its compliance.