

(2008) 02 DEL CK 0207
In the Delhi High Court
Case No : Mac App No. 512 of 2007

Smt. Harminder Kaur and Others

APPELLANT

Vs

Shri Hardayal Singh and Others

RESPONDENT

Date of Decision : 27-02-2008

Acts Referred:

Citation : (2008) 02 DEL CK 0207

Hon'ble Judges : Kailash Gambhir, J

Bench : Single Bench

Advocate : N.S. Bhullar, for the Appellant; R.C.S. Bhadoria, for Sonia Sharma, for the Respondent

Judgement

Kailash Gambhir, J.—The present appeal arises out of the award dated 15.5.2007, wherein the tribunal awarded a sum of Rs. 4,21,736/- as compensation along with interest @ 6% per annum.

2. By way of the present appeal, the appellants have sought to challenge the impugned award so as to claim enhancement in the compensation amount over and above the award amount.

3. Brief summary of the facts to deal with the rival contentions of the parties are as under:

4. On 17.3.95, the deceased Shri Joginder Singh who was driving his own truck, bearing registration No. DIL-4033, while driving the said vehicle loaded with timber from Bihar to Delhi reached on the Faizabad Barabanki Highway, was hit by another truck bearing registration No. PB-02-9717. Due to the collision the vehicle of the deceased overturned and he suffered severe head injuries. Shri Joginder Singh filed the petition, however, he died during the pendency of the suit.

5. Mr. Bhullar, counsel for the appellant contends that the appellant is mainly aggrieved with the findings of the Tribunal on account of the wrong application of

multiplier by the Tribunal. Counsel for the appellant contends that the deceased was 39 years of age at the time of the accident and at the time of his death he was 46 years old. Counsel for the appellant contends that the Tribunal has wrongly applied the multiplier of 8, whereas it should have been 13 as per the Second Schedule of the Motor Vehicles Act.

6. Counsel for the appellant also contends that a meager amount of Rs. 20,000/- has been awarded by the Tribunal towards loss of love and affection and loss of consortium.

7. Mr. Bhadoria, proxy counsel for Ms. Sonia Sharma who is the main counsel for the respondent states that he may be given opportunity to file reply to the present appeal. The request made by the proxy counsel for the respondent is declined. This matter was directed to be listed vide order dated 10.12.2007 for 28.1.2008 for final disposal and the matter was adjourned for today at the request of proxy counsel for the respondent.

8. I have heard learned Counsel for the parties and have perused the record.

9. It is not in dispute that the deceased died at the age of 46 years, although he was 39 years old at the time of the accident. The contention of the counsel for the appellant is that although the age of 39 years should have been taken into consideration for the applicability of the multiplier by the Tribunal, yet he states that the appellants would be satisfied even if the multiplier of 13 after considering the age of the deceased as 46 years as laid down in the Second Schedule of the M.V. Act is taken into consideration. As per the Second Schedule of the M.V. Act the appropriate multiplier between the age of 45-50 is 13. Therefore, the said multiplier of 13 shall be applicable in place of 8 as applied by the Tribunal.

10. The Tribunal has awarded a meager amount of Rs. 20,000/- towards loss of consortium and loss of love and affection. A separate amount of Rs. 50,000/- is granted towards the loss of consortium in favour of the widow. Amount of Rs. 20,000/- which has been granted by the Tribunal against both the heads i.e., loss of love and affection and loss of consortium shall be only considered towards the loss of love and affection.

12. Let differential amount be paid by the respondent to the appellants along with interest @7.5% p.a. from the date of filing of the petition till realization.

13. With these directions, the appeal stands disposed of.