(2013) 09 DEL CK 0141

In the Delhi High Court

Case No : MAC. App. 389 of 2012

Smt. Indumati and Others APPELLANT

Vs

National Insurance and Others RESPONDENT

Date of Decision : 04-09-2013

Acts Referred:

Citation : (2013) 09 DEL CK 0141

Hon'ble Judges : Suresh Kait, J

Bench : Single Bench

Advocate : B.K. Mishra, for the Appellant; S.D. Raman and Mr. Sanjeet Ranjan, Advocates, for the Respondent

Final Decision : Allowed

Judgement

Suresh Kait, J.—The present appeal is preferred for enhancement of award dated 24.07.2010, whereby the learned Tribunal has awarded a total compensation of Rs. 15,96,380/- with interest at the rate of 7.5% per annum. Learned counsel appearing on behalf of the appellants has argued that the learned Tribunal has considered the salary of the deceased as Rs. 10,788/- per month, which has been proved by the salary certificate Ex.PW2/1, however failed to grant any compensation towards future prospects as the age of the deceased was 36 years at the time of the accident, i.e. 09.01.2002.

2. To support his arguments, learned counsel has relied upon the case of Rajesh and Others Vs. Rajbir Singh and Others, , and submitted that the appellants/ claimants are entitled for compensation towards future prospects.

3. On the other hand, learned counsel appearing on behalf of the respondent No. 1/Insurance Company has submitted that since there was no loss on account of salary, therefore, the learned Tribunal has rightly not considered any amount towards future prospects.

4. I do not find any substance in the submission made by the learned counsel for the respondent No. 1/Insurance Company.

5. Therefore, keeping in view the dictum of the Apex Court in the case of Rajesh (supra) wherein it is held that in the case of self-employed or persons with fixed wages, in case, the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. It is proved that the deceased was aged 36 years at the time of the accident; and the employment was permanent in nature. Thus, the appellants/ claimants are entitled for 50% towards future prospects.

6. Ordered accordingly.

7. Consequently, after taking 50% towards future prospects, the compensation on account of loss of dependency would be Rs. 21,84,570/-(Rs. 12,136.5 X 12 X 15).

8. It is pertinent to note that while condoning the delay of 523 days in filing the appeal, it was made clear that in case the appellants/claimants succeed in the appeal, they would be entitled for the interest from the date of filing of the claim petition till the date of the award.

9. Thus, the compensation amount is enhanced for Rs. 7,28,190/- (Rs. 21,84,570- Rs. 14,56,380), with interest @ 7.5% per annum from the date of filing of the petition till the date of award i.e. 24.07.2010.

10. Respondent No. 1/Insurance Company is directed to deposit the enhanced compensation amount along with interest before the Registrar General of this Court within five weeks from today, failing which, appellants/claimants shall be entitled for penal interest @ 12% per annum on account of delayed payment.

11. The Registrar General is directed to keep the amount in favour of appellants in the form of FDR for a period of three years as per the ratio of the award.

12. The instant appeal is allowed on the above terms. There is no order as to costs.