(2012) 10 DEL CK 0018

In the Delhi High Court

Case No : MAC. App. 1008 of 2012

Smt. Madhu Bala and Others — APPELLANT

Vs

Sh. Surender Kumar and Others — RESPONDENT

Date of Decision : 12-10-2012

Acts Referred:

Citation : (2012) 10 DEL CK 0018

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

Bench : Single Bench

Advocate : S.N. Parashar, for the Appellant; Suman Bagga, for R-3, for the Respondent

Final Decision : Allowed

Judgement

G.P. Mittal, J.—The Appeal is for enhancement of compensation of Rs. 4,89,920/- awarded for the death of Narender Kumar who died in a motor vehicle accident which occurred on 02.11.2006. In the absence of any Appeal by the driver, owner or the Insurer, the finding on negligence has attained finality between the parties.

2. During inquiry before the Claims Tribunal it was claimed that the deceased was in the business of readymade garments. Deceased had an income of Rs. 8,000/- per month from the business of readymade garments. In the absence of any cogent evidence with regard to deceased''s business or his income, the Claims Tribunal took the minimum wages of a Matriculate as per his qualification, deducted one-fourth towards personal and living expenses to compute the loss of dependency as Rs. 4,39,920/-. After making an addition of Rs. 50,000/- towards non-pecuniary damages, the overall compensation of Rs. 4,89,920/- was awarded.

3. The only ground of challenge raised on behalf of the Appellants is that even in the absence of any evidence with regard to future prospects, the Appellants were entitled to an addition of 30% towards inflation. Reliance is placed on Santosh

Devi v. National Insurance Company Ltd. & Ors., 2012 (4) SCA 559. It is stated that the compensation of Rs. 5,000/- towards funeral expenses was on the lower side.

4. I am in perfect agreement with the contentions raises on behalf of the Appellants. On the basis of the ratio in Santosh Devi, the Appellants were entitled to an addition of 30% in the income of the deceased on the date of his death to compute the loss of dependency.

5. The loss of dependency thus comes to Rs. 5,71,896/- (3760/- + 30%x3/4 12x13).

6. The compensation awarded towards funeral expenses is raised from Rs. 5,000/- to Rs. 10,000/-.

7. Thus, there is an overall enhancement of Rs. 86,976/- which shall carry interest @ 8% per annum from the date of filing of the petition till its payment.

8. Respondent No. 3 the ICICI Lombard General Insurance Company Limited is directed to deposit the enhanced compensation along with interest with the Claims Tribunal within six weeks.

9. Eighty percent of the enhanced compensation shall be payable to the First Appellant whereas 20% shall be payable to Appellant No. 4.

10. The compensation awarded to the First Appellant shall be held in fixed deposit for a period of three years in any Nationalized Bank. The compensation awarded to Appellant No. 4 shall be released on deposit.

11. The Appeal is allowed in above terms. Pending Applications also stand disposed of.