(2013) 10 DEL CK 0417

In the Delhi High Court

Case No : MAC.APP. 259 of 2012 and CM No. 5024 of 2013

Smt. Mehar Jahan and Others APPELLANT

Vs

Abdul Wahid and Others RESPONDENT

Date of Decision : 29-10-2013

Acts Referred:
Civil Procedure Code, 1908 (CPC) — Section 151

Citation : (2013) 10 DEL CK 0417

Hon'ble Judges : Suresh Kait, J

Bench : Single Bench

Advocate : O.P. Mannie, for the Appellant; Shoumik Mazumdar, Advocate for Respondent No. 3/Insurance Company, for the Respondent

Final Decision : Allowed

Judgement

Suresh Kait, J.

MAC.APP. 259/2012

1. Vide the present appeal, the appellants are assailing the judgment dated 13.12.2011, whereby the learned Tribunal has awarded a total compensation of Rs. 9,24,000/- with interest at the rate of 7.5% per annum from the date of filing of the petition till realization of the amount. Learned counsel appearing on behalf of the appellants submits that the appellants are seeking enhancement of the compensation as noted above and argued that the deceased was the Sole Proprietor of A-One Electroplating and the claimants have proved his income by placing on record the Income Tax Returns (ITRs) for the period from 2004 to 2008. On considering the said ITRs, the learned Tribunal has assessed the annual income of the deceased as Rs. 74,000/-.

2. Learned counsel submitted that at the time of the accident, the deceased was aged 34 years and he was in permanent avocation, despite that the learned Tribunal has not awarded compensation towards future prospects.

3. Issue of future prospects is no more res Integra as the same has been decided by the Apex Court in the case of Rajesh and Others Vs. Rajbir Singh and Others, .

4. Following the aforesaid dictum of the Apex Court, this Court has decided the case of ICICI Lombard Gen. Insurance. Co. Ltd. Vs. Angrez Singh in MACA No. 846/2011.

5. Therefore, keeping in view the dictum of Rajesh (supra), followed by this Court in the case of Angrez Singh (supra) and the fact that the deceased was aged 34 years at the time of the accident, I, accordingly, grant 50% towards future prospects.

6. Second ground argued by the learned counsel for the appellants is that the compensation granted towards non-pecuniary heads is also on the lower side as the learned Tribunal has granted Rs. 10,000/- each for loss of love and affection and loss of consortium and Rs. 6,000/-towards funeral expenses.

7. Keeping in view the dictum of Rajesh (supra), age of the deceased and the dependants left behind by him, i.e., wife, three minor children and widowed mother, who died during the pendency of the instant appeal, I enhance Rs. 1,00,000/- from Rs. 10,000/- for loss of love and affection, Rs. 1,00,000/- from Rs. 10,000/- for loss of consortium and Rs. 25,000/- from Rs. 6,000/- for funeral expenses.

8. Consequently, the compensation comes as under:

9. Hence the enhanced compensation comes to Rs. 6,43,000/-(Rs. 15,67,000/-- Rs. 9,24,000/-).

10. The enhanced compensation shall also carry interest @ 7.5% per annum from the date of filing of the petition till realization.

11. Consequently, respondent No. 3/Insurance Company is directed to deposit the enhanced compensation amount with upto date interest accrued thereon within five weeks from today with the Registrar General of this Court, failing which appellants shall be entitled for interest @ 12% on delayed payment.

12. On deposit, the Registrar General shall release the said amount in favour of the appellants/claimants except deceased, i.e., appellant No. 5 Smt. Jarina Khatoon, in terms of the order dated 13.12.2011 passed by the learned Tribunal on taking necessary steps by them. Registrar General is further directed to devolve equally the share of aforesaid deceased, i.e., appellant No. 5 in favour of the other appellants/claimants. In view of the above, the instant appeal is allowed and stands disposed of.

CM No. 5024/2013 (U/s. 151 CPC)

With the disposal of the appeal itself, this application has become infructuous. The same is disposed of accordingly.