

(2008) 03 DEL CK 0201

In the Delhi High Court

Case No : Mac. App. No. 1087 of 2006

Smt. Shukla and Others

APPELLANT

Vs

Sh. Mahaveer Singh Judda and Others

RESPONDENT

Date of Decision : 13-03-2008

Acts Referred:

Motor Vehicles Act, 1988 — Section 168

Citation : (2008) 03 DEL CK 0201

Hon'ble Judges : Kailash Gambhir, J

Bench : Single Bench

Advocate : O.P. Mannie, for the Appellant; Pradeep Gaur, for the Respondent

Judgement

Kailash Gambhir, J.—By way of the present appeal the appellant has sought to challenge the award dated 21.9.2006 so as to claim enhancement of the compensation over and above the amount awarded by the Tribunal.

2. To deal with the rival contentions of the counsel for the parties, brief summary of the facts are as under:

On 27.5.2005 at about 1.25 P.M., the deceased Mr. Ajay@ Ajeet was going in Vikram Tempo from Azad Pur Mandi to his house and when he reached at Hanuman Setu, near Ring Road, Jamana Bazar, a Tempo bearing registration No. DL-1L-E-8902 being driven by its driver in a rash and negligent manner came from behind and hit the Vikram Tempo as a result of which, the said Vikram Tempo overturned resulting into the death of Mr. Ajay.

3. Mr. Mannie counsel for the appellants contends that the Tribunal has assessed the income of the deceased under the Minimum Wages Act at Rs. 3044/- per month but no increase has been taken into consideration by the Tribunal. Counsel for the appellant further contends that the meager amount of Rs. 15,000/- has been awarded towards loss of estate and same amount has been awarded towards loss of love and affection. Counsel for the appellant further contends that the deceased was a young boy of 27 years of age and was

survived by a young widow besides his mother and two minor daughters. Counsel thus contends that award of Rs. 15,000/- towards loss of consortium cannot be considered to be justified as the widow is of quite young age. Counsel also contends that the amount towards loss of love and affection needs to be further enhanced considering the number of family members left by the deceased.

4. Per contra, Mr. Pradeep Gaur counsel for the respondent refutes the submissions made by the counsel for the appellants. Mr. Gaur submits that no fault can be found with the findings given by the Tribunal as the same is in consonance with the principles as envisaged u/s 168 of the Motor Vehicles Act. Mr. Gaur further submits that the Tribunal has applied the highest multiplier without taking into consideration the age of the mother of the deceased and also allowed deduction of 1/4th towards the personal expenses of the deceased. Counsel further states that even the rate of interest @ 8% awarded by the Tribunal is on the higher side.

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

6. It is no more res integra that this Court has taken a consistent view that wherever the income of the deceased is assessed under the Minimum Wages Act, then increase as per the Minimum Wages Act is also to be taken into consideration. The income under the Minimum Wages Act becomes more than double within a span of 10 years period. Therefore, the said increase can be taken into consideration so as to assess the income of the deceased in the present case. Accordingly, the income of the deceased which was assessed at Rs. 3044/- p.m. would be doubled to Rs. 6,088/- and then taking the average of the same it would come to Rs. 4,566/- p.m. Taking the said income into consideration with the said multiplier of 18 and deducting 1/4th towards the personal expenses as allowed by the Tribunal, financial dependency of the family members of the deceased would come to Rs. 7,39,692/-. The compensation as granted by the Tribunal towards the loss of financial dependency would thus be raised from Rs. 4,40,100/- to Rs. 7,39,692/-. The deceased is survived by his young widow as the deceased at the time of the accident was 27 years of age, therefore, compensation of Rs. 15,000/- towards loss of consortium is quite on lower side which is raised to Rs. 50,000/-. After taking into account the said compensation of Rs. 50,000/- being granted to the widow towards loss of consortium the award of Rs. 15,000/- towards loss of love and affection in favour of the two minor daughters cannot be considered to be on the lower side.

7. Let differential amount be paid to the appellant by the respondent along with up-to-date interest @8% p.a. from the date of filing of the petition till realization.

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