

(2013) 11 DEL CK 0303
In the Delhi High Court
Case No : MAC. APP. 658 of 2013

Smt. Sushma Bhardwaj and Others

APPELLANT

Vs

Shri Ram Sevak Kumar and Others

RESPONDENT

Date of Decision : 18-11-2013

Acts Referred:

Citation : (2013) 11 DEL CK 0303

Hon'ble Judges : Suresh Kait, J

Bench : Single Bench

Advocate : Sumita Hazarika and Ms. Ipsita, for the Appellant; Vaidant Chadha for Mr. Sameer Nandwani, Advocate for Respondent No. 3/Insurance Company, for the Respondent

Final Decision : Allowed

Judgement

Suresh Kait, J.—The present appeal is directed against the impugned award dated 21.12.2012, whereby the learned Tribunal has granted compensation for a sum of Rs. 28,21,066/- with interest at the rate of 7.5 % per annum from the date of filing of the claim petition till realization. By way of this appeal, the appellants/claimants are seeking enhancement of the award amount noted above.

2. Learned counsel appearing on behalf of the appellants/claimants has submitted that at the time of the accident, the deceased was working as an Attendant in the All India Institute of Medical Sciences, New Delhi ("AIIMS") and the same has been proved by Ex. PW2/1, which is a letter written by Administrative Officer (H) to the learned Tribunal showing basic pay of the deceased Rs. 7,490, D.A. was Rs. 4,344/-, HRA was Rs. 2,247/- T.P. was Rs. 948/- and HPCA, i.e., Hospital Patient Care Allowance was Rs. 695/-. Accordingly, the gross pay of the deceased was Rs. 15,724/- per month.

3. While calculating the monthly income of the deceased, the learned Tribunal had deducted Rs. 948 of T.P. and considered the same as Rs. 14,766/-.

4. Learned counsel for the appellants/claimants has argued that at the time of

the accident, the age of the deceased was 35 years, despite that the learned Tribunal has added 30% of the income towards future prospects. Further argued that the compensation granted towards non-pecuniary losses are on lower side as the learned Tribunal has awarded only Rs. 25,000/- towards loss of love and affection and Rs. 10,000/- each was granted for loss of consortium and funeral expenses.

5. On both the issues noted above, learned counsel has relied upon a case of Rajesh and Others Vs. Rajbir Singh and Others, and submitted that keeping in view the dictum of the Full Bench of the Apex Court and the age of the deceased, the appellants/claimants are entitled to addition of 50% of the income towards future prospects and Rs. 1,00,000/- each on account of loss of love and affection and loss of consortium and Rs. 25,000/- for funeral expenses.

6. On the other hand, learned counsel appearing on behalf of the respondent No. 3/Insurance Company has submitted that the deceased was not in permanent job, therefore, the learned Tribunal while relying upon the case of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , has rightly added 30% of the income towards future prospects.

7. As regards non-pecuniary damages, he submitted that it depends upon the facts and circumstances of each and every case. Therefore, taking into view the facts of the present case, the compensation granted by the learned Tribunal towards non-pecuniary losses is just and adequate.

8. Issue of future prospects is no more res integra as the same has been decided by the Apex Court in a catena of judgments and recently the Full Bench of the Supreme Court has exclusively dealt with the same in the case of Rajesh & Ors. (supra) which has been followed by this Court in the case bearing MACA No. 846/2011 titled as ICICI Lombard General Insurance Co. Ltd. Vs. Angrej Singh & Ors., decided on 30.09.2013.

9. Therefore, keeping in view the settled position of law and that the deceased was aged 35 years at the time of the accident, I grant 50% of the actual income of the deceased towards future prospects.

10. So far as non-pecuniary benefits are concerned, following the dictum of Rajesh & Ors. (supra), I grant Rs. 1,00,000/- on account of loss of love and affection, Rs. 1,00,000/- for loss of consortium and Rs. 25,000/- towards funeral expenses.

11. Consequently, the compensation amount comes as under:-

Resultantly, the enhanced compensation amount comes to Rs. 6,03,390/-(Rs. 34,24,456/--Rs. 28,21,066/-).

12. Needless to state that the enhanced amount shall also carry interest @ 7.5% per annum from the date of filing of the claim petition till realization.

13. The respondent No. 3/Insurance Company is directed to deposit the

enhanced compensation amount along with interest with the Registrar General of this Court within a period of five weeks from today, failing which, appellants/claimants shall be entitled for penal interest @ 12% per annum on account of delayed payment.

14. On deposit, the Registrar General is directed to release the amount in favour of the appellants/claimants in terms of the impugned award dated 21.12.2012 passed by the learned Tribunal on taking necessary steps by them. In view of the above, the appeal is allowed.