(2003) 08 DEL CK 0039

In the Delhi High Court

Case No : F.A.O. No. 320 of 2002

Smt. Zamri and Others APPELLANT

Vs

Vijinder Singh and Others RESPONDENT

Date of Decision : 08-08-2003

Acts Referred:

Citation : (2004) 1 ACC 361 : (2003) 6 AD 339

Hon'ble Judges : S.K. Mahajan, J

Bench : Single Bench

Advocate : O.P. Mannie, for the Appellant; M.K. Sharma and Ajay Kumar, for the Respondent

Final Decision : Allowed

Judgement

S.K. Mahajan, J.—ADMIT.

2. With the consent of the parties, matter has been heard and disposed of by this order.

3. This appeal against the award of Motor Accident Claims Tribunal is filed by the widow, mother and children of the deceased Ramu for enhancement of compensation for his death on 19.7.1997, in a road accident caused by the rash and negligent driving of the offending vehicle.

4. The Tribunal after holding that the accident was caused due to the rash and negligent driving of the offending vehicle and the deceased died because of the injuries sustained in the said accident awarded compensation in favor of the appellants. Being aggrieved by the award of the Tribunal, the present appeal has been filed by the appellants for enhancement.

5. The only point argued by learned counsel for the appellant is that the Tribunal while arriving at the compensation payable to the dependents of the deceased has not considered the future prospects in the life and career of the deceased and has also not applied the correct multiplier. The Tribunal taking the income of

the deceased at the minimum wages payable under the Minimum Wages Act has applied the multiplier of 16 and has directed the compensation of Rs. 2,14,000/- to be paid to the appellants which include a sum of Rs. 10,000/- by way of loss of consortium, Rs. 5,000/- on account of funeral expenses and Rs. 2500/- on account of loss of estate to the family.

6. I am in agreement with learned counsel for the appellants that while arriving at just compensation payable to the family of the victim of the road accident, the Tribunal has clearly erred in not taking into consideration the future prospects in the life and career of the deceased. The deceased at the time of death was 22 years of age. His income was taken to be Rs. 1784/- being the minimum wage payable under the Minimum Wages Act as on the date of the accident. Deducting 1/3rd of this towards the personal expenses of the deceased, the loss of dependency to the family was taken to be Rs. 1024/-per month and applying the multiplier of 16, loss of dependency was computed to Rs. 1,96,608/-. It is no longer in dispute that while assessing the compensation payable to the family of the deceased, the Courts are required to take into consideration the future prospects in the life and career of the deceased and unless there are valid, proper and special reasons to deviate, the multiplier given in the Second Schedule to the Motor Vehicles Act should be applied by the Court. The Minimum Wage for an unskilled worker at the time of the death of the deceased was Rs. 1784/- per month. Because of inflation and rise in the cost of living, the minimum wage payable to an unskilled worker as on 1.8.2002, was Rs. 2679.70 paise. It is thus seen that within a period of five years there was one and a half time increase in the minimum wage payable to an unskilled worker. This Court would, Therefore, not be in error in estimating the minimum wages payable to the deceased at the end of twenty years at double the minimum wage payable in the year 1997. Adding this to the minimum wage payable in 1997 and dividing the same by two, average pay of the deceased would come to Rs. 2700/- per month. Deducting 1/3rd from this towards his personal expenses, loss of dependency to the family would be Rs. 1800/- per month or Rs. 21,600/- per year. Applying the multiplier of 17 in terms of the Second Schedule to the Motor Vehicles Act, the loss of dependency to the family would come to Rs. 3,67,200/-. Adding to this a sum of Rs. 10,000/- towards loss of consortium, Rs. 5,000/- towards funeral expenses and Rs. 2500/- by way of loss of estate, the appellants would be entitled to the total compensation of Rs. 3,84,700/-.

7. I, accordingly, allow this appeal and direct that the appellants will be entitled to the total compensation of Rs. 3,84,700/-. The appellants will also be entitled to interest @ 9% per annum on the enhanced compensation from the date of filing of their application before the Tribunal till its realisation. In the facts of this case, I leave the parties to bear their own costs.