(1985) 10 DEL CK 0032

In the Delhi High Court

Case No : F.A.O. No. 125 of 1972

Sudesh Chopra and Others — APPELLANT

Vs

State of Haryana and Others — RESPONDENT

Date of Decision : 04-10-1985

Acts Referred:

Citation : (1986) 1 ACC 110 : (1987) ACJ 327 : (1986) 29 DLT 213

Hon'ble Judges : S.B. Wad, J

Bench : Single Bench

Advocate : V.P. Chaudhry and Manmohan Karla, for the Appellant; S.S. Dalal, for the Respondent

Final Decision : Allowed

Judgement

S.B. Wad, J.—This is the claimants'' appeal for enhancement (sic) compensation granted by the Motor Accident Claims Tribunal, Delhi, (sic)5-8-1972. The claimants have claimed Rs. 2,50,000/- towards compensation but the Tribunal has awarded only Rs. 25,916/-. Shri Raj Kanwar Singh Chopra died in a road accident on 18-7-1968. At the time of the accident (sic) was working as a Police Wireless Van No. PNW-3883 on duty from Hissar to Delhi. The vehicle was being driven at a great speed and in a rash and negligent manner. The driver of the vehicle lost control over the vehicle and suddenly swerved his vehicle towards the wrong side of the road and violently struck against a tree. The vehicle in question belonged to Haryana State. The State of Haryana has filed the cross-objections only to the extent that no credit was given by the Tribunal for the payment of Rs. 3,500/- made from the Police Fund and Rs. 2,900/- paid towards the gratuity to the claimants by the State of Haryana. The liability to pay compensation as such is not denied. I, Therefore, confirm the findings of the Tribunal in regard to the occurrence of the accident and the liability of the State of Haryana to pay the compensation.

2. The deceased was working as an Inspector of Police. He was 37 years old at the time of the accident. The age of superannuation in the Service was 58. At the

time of his death his salary was Rs. 469.50. He was also entitled to free accommodation and five per cent of the pay for personal expenses towards maintenance of uniform. He had an excellent service record and would have, Therefore, risen to the post of Dy. Superintendent of Police. The compensation of Rs. 2,50,000/- was claimed in 1968 considering the said possibility of promotion and rise in the salary. However, even if the chances of promotion are excluded from the consideration for the time being even then claimants would have been entitled to much higher compensation. This is because even if the deceased would have continued as an Inspector till the date of superannuation he would have been entitled to the increase in the pay and allowances and other facilities that are normally given in the services due to general revisions. As a matter of fact the pay scales have increased (sic) during this period. The other allowances have also proportionately gone up. The counsel for the claimants has prepared a chart of the said increases and the same is filed on the record of this case. The counsel for the respondents has checked up the said chart of increases and has confirmed that the calculations made therein are quite correct. If the figures given in the chart towards increases in the pay scale and other allowances and facilities are correct, they would show that the claimants would be entitled to over Rs. 3,50,000/- as compensation. Even if the respondents are entitled to the deduction of the amount of gratuity and the amount paid from the welfare fund, these amounts are very petty amounts of Rs. 3,500/- and Rs. 2,90,00/-. Although the claimants should have been entitled to more than Rs, 3,50,000/- towards compensation, they have only claimed Rs. 2,50,000/- towards compensation. I have, Therefore, no hesitation in increasing the amount of compensation of Rs. 25,916/-, as awarded by the Tribunal, has already been paid to the claimants. The counsel for the claimants confirms this fact. The claimants would, Therefore, be entitled to the additional compensation, namely, Rs. 2,24,000/- at the said rate of interest would be payable from the date of the application till the date on which Rs. 25,916/- were paid to the claimants. Thereafter on the balance of the amount the interest at the rate of 6 per cent annum will be payable till the final payments are made.

3. Counsel for the respondents points out that family pension is being paid to the widow for the last seven years at the rate of Rs. 120/- per month and thereafter though out her life the pension will be paid at the rate of Rs. 60/- per month. The counsel states that the calculation of the family pension on this basis would roughly come to about Rs. 30,000/- and credit for the payment of this amount should be given to the State. Even after these deduction the claimants will be entitled to Rs. 2,50,000/- as compensation.

4. Counsel for the appellants states that two daughters and a son of the deceased were minor at the time of the filing of the claims petition. They have now become major. The counsel for the appellants undertakes to file an application for the purpose. The same stands allowed. The cause title be amended accordingly.

5. For the reasons stated above, the appeal is allowed.