(2018) 07 DEL CK 0194

In the Delhi High Court

Case No : MAC.APP. 182, 415 OF 2018 & CM APPL. 6275 OF 2018

Uttar Pradesh State Road Transport Corporation @APPELLANT@Hash Mahipal Singh & Anr

Date of Decision : 06-07-2018

Acts Referred:
Indian Penal Code 1860 — Section 279, 304A, 338

Citation : (2018) 07 DEL CK 0194

Hon'ble Judges : J.R. MIDHA, J

Bench : Single Bench

Judgement

1. The parties have challenged the award of the Claims Tribunal whereby compensation of Rs.11,86,936/- has been awarded to the claimants.Â

2. The accident dated 13th November, 2015 resulted in the death of Omkar Pal @ Rohit. The deceased was aged 19 years at the time of accident and

was survived by his parents who claimed compensation. The deceased was doing graduation. It was claimed that deceased was also giving tuitions

and was earning Rs.15,000/- per month. In the absence of any proof of income, the Claims Tribunal took the minimum wages of 11,154/- per month,

deducted 1/2 towards personal expenses and applied multiplier of 14 according to the age of the mother of the deceased to compute the loss of

dependency as Rs.9,36,936/-. The Claims Tribunal awarded Rs.1,50,000/- towards loss of love and affection, Rs.50,000/- towards funeral expenses

and Rs.50,000/- towards loss of estate. The total compensation of Rs.11,86,936/- has been awarded.Â

3. Learned counsel for appellant in MAC.182/2018 urged at the time of hearing that the deceased was hit by a tempo moving ahead the motorcycle

being driven by the deceased and there was no negligence on the part of the driver of the bus. It is further submitted that the compensation for loss of love and affection is no more a permissible head in view of the National Insurance Co. Limited vs. Pranay Sethi and Ors. 2017 SCC Online SC 1270.

4. Learned counsel for the claimants urged at the time of hearing that future prospects of 40% be awarded and the multiplier be enhanced from 14 to

18 in terms of the principles laid down in National Insurance Co. Limited vs. Pranay Sethi and Ors. (supra).

5. With respect to the negligence, the Claims Tribunal has believed the statement of the eye witness, Vishal who appeared in the witness box as PW-

2. The Claims Tribunal also noted that the driver of the bus has been prosecuted under Section 279/338/304-A IPC. The Claims Tribunal did not

believe the statement of the bus driver. The relevant discussion is recorded in para-8.1 of the award. This Court does not find any infirmity in the

finding of negligence of the bus driver by the Claims Tribunal.Â

6. With respect to the computation of compensation, the claimants are entitled to future prospects at the rate of 40% and the multiplier of 18 has to be

applied according to the age of the deceased. The loss of love and affection is no more a permissible head and therefore, the compensation of

Rs.1,50,000/- awarded towards loss of love and affection is set aside. The compensation towards funeral expenses and loss of estate is reduced to

Rs.15,000/- each.Â

7. Taking the income of the deceased as Rs.11,154/-, adding 40% towards future prospects, deducting 50% towards personal expenses and applying

the multiplier of 18, the loss of dependency is computed as Rs.16,86,484.80. Rs. 15,000/- each is awarded towards loss of estate and funeral

expenses. The claimants are entitled to total compensation of Rs.17,16,484.80 rounded off to Rs.17,16,500/-.

8. MAC.APP.415/2018 is allowed and the compensation amount is enhanced from Rs.11,86,963/- to Rs.17,16,500/- along with interest @ 9% per

annum from the date of institution of the claim petition i.e. 23rd January, 2016. MAC.APP.182/2018 is dismissed.

9. The appellant in MAC.APP.182/2018 is directed to deposit enhanced award amount with the Registrar General of this Court within four weeks.Â

10. With respect to Rs.12,70,370/- deposited by the appellant in MAC.APP.182/2018, the Registrar General is directed to disburse the same to the

claimants by instructing UCO Bank, Delhi High Court Branch as under:-

(i) Rs.10,20,000/- be kept in 120 FDRs of Rs.8,500/- each, for the period 1 month to 120 months respectively, in the name of appellant No.2 with

cumulative interest.

(ii) The balance amount after keeping Rs.10,20,000/- in FDRs, be released to the claimants, Mahipal Singh and Puran Wati in equal shares by

transferring the same to their following savings bank accounts.Â

a. Respondent no.1, Mahipal Singh A/c No.00701010046616 with Axis Bank Ltd., Statesman House, 148, Barakhamba Road, New Delhi â?" 110001

(IFSC Code: UTIB0000007).

b. Respondent no.2, Puran Wati A/c No.225600 0100291875 with Punjab National Bank, Yamuna Vihar Branch, Delhi (IFSC Code: PUNB0225600).

11. The original FDRs shall remain with UCO Bank, Delhi High Court Branch.Â However, the statement containing FDR number, amount, date of

maturity and maturity amount shall be furnished by UCO Bank to the claimant, Puran Wati.

12. The maturity amounts of the FDRs be released to Puran Wati in her savings bank account mentioned in Para 10 above.

13. No loan or advance or pre-mature discharge shall be permitted without the permission of this Court.

14. The concerned bank of the claimants shall permit them to withdraw money from their savings bank account by means of a withdrawal form.

15. List for reporting compliance and disbursement of the compensation amount on 26th September, 2018.

16. Copy of this judgment be given dasti to learned counsels for the parties under signature of Court Master.