

(2009) 04 DEL CK 0504
In the Delhi High Court
Case No : FAO No. 406 of 1999

Warrant Officer Amal Raj and Others	Vs	APPELLANT
Raj Singh and Others		RESPONDENT

Date of Decision : 20-04-2009

Acts Referred:

Citation : (2009) 04 DEL CK 0504

Hon'ble Judges : Kailash Gambhir, J

Bench : Single Bench

Advocate : S. Janani, for the Appellant; Kanwal Chaudhary, for the Respondent

Final Decision : Disposed Off

Judgement

Kailash Gambhir, J.—The present appeal arises out of the award dated 3.5.1999 of the Motor Accident Claims Tribunal whereby the Tribunal awarded a sum of Rs. 1,80,000/- along with interest @ 12% per annum to the claimants.

2. The brief conspectus of the facts is as follows:

On 12.4.1989 at about 1:00 am, the deceased Sh. A.L. Churchill after completing his duty at Oberoi Intercontinental Hotel, Dr. Zakhir Hussain Marg, N. Delhi was going to his residence on the motorcycle bearing registration No. DEX 6214. When he reached at Dhaula Kuan Road, a bus bearing registration No. DEP 6121 driven in a rash and negligent manner by respondent No. 1 came on the wrong side with a very fast speed and hit the said motor cycle. As a result Sh. Churchill fell on the road and sustained multiple injuries resulting into his death.

3. A claim petition was filed on 10.5.1989 and an award was passed on 3.5.1999. Aggrieved with the said award enhancement is claimed by way of the present appeal.

4. Ms. S. Janani Counsel for the appellants contended that the tribunal erred in assessing the income of the deceased at Rs. 750/- per month whereas after looking at the facts and circumstances of the case the tribunal should have

assessed the income of the deceased at Rs. 1,200/- per month. It was urged by the Counsel that the tribunal erred in not considering future prospects while computing compensation as it failed to appreciate that the deceased would have earned much more in near future as he was of 20 yrs of age only and would have lived for another 40-50 yrs had he not met with the accident. The Counsel also stated that had the deceased not met with his untimely death he would have been working in some international hotel as a steward and would have been earning much more in the near future. It was also alleged by the Counsel that the tribunal did not consider the fact that due to high rates of inflation the deceased would have earned much more in near future and the tribunal also failed in appreciating the fact that even the minimum wages are revised twice in an year and hence, the deceased would have earned much more in his life span. The Counsel contended that the tribunal has erred in not awarding compensation towards loss of love & affection, funeral expenses, loss of estate, loss of consortium, mental pain and sufferings and the loss of services, which were being rendered by the deceased to the appellants.

5. Per Contra Mr. Kanwal Chaudhry, Counsel for respondent insurance company submitted that there is no illegality in the impugned award. Counsel further contended that award passed by Tribunal is absolutely fair, just and reasonable and no fault can be found with the same warranting interference by this Court.

6. I have heard Learned Counsel for the parties and perused the record.

7. As regards income of the deceased, the appellants claimants had brought on record appointment letter dated 2.2.1988, Ex. PW4/1 as an apprentice on stipend of Rs. 750/- pm and PW4 Sh. Tajinder Sodhi, Asstt. Personal Manager deposed that the deceased was earning Rs. 750/- pm. But was also getting tips which totalled up to Rs. 1200/- pm. He also deposed that had he not died then he would have been regularised as a regular steward and would have been earning Rs. 4586/- pm of which Rs. 1950/- pm would have been his basic salary and would have retired at the age of 58 years. After considering all these factors, I am of the view that the tribunal has not erred in assessing the income of the deceased at Rs. 750/- pm.

8. Therefore, no interference is made in relation to income of the deceased by this Court.

9. As regards the future prospects, the tribunal considering the age of the deceased and looking at the commendable work done by the deceased during his apprenticeship considered future prospects of the deceased. Considering that no dispute in this regard is raised by the respondents, I do not feel inclined to interfere with the same.

10. On the contention regarding that the tribunal has erred in not granting compensation towards loss of love & affection, funeral expenses, loss of estate and the loss of services, which were being rendered by the deceased to the appellants. In this regard compensation towards loss of love and affection is

awarded at Rs. 20,000/-; compensation towards funeral expenses is awarded at Rs. 10,000/- and compensation towards loss of estate is awarded at Rs. 10,000/-.

11. As far as the contention pertaining to the awarding of amount towards mental pain and sufferings caused to the appellants due to the sudden demise of their only son and the loss of services, which were being rendered by the deceased to the appellants is concerned, I do not feel inclined to award any amount as compensation towards the same as the same are not conventional heads of damages.

12. On the basis of the discussion, the total loss of dependency as assessed by the tribunal comes to Rs. 1,80,000/-. After considering Rs. 40,000/-, which is granted towards non-pecuniary damages, the total compensation comes out as Rs. 2,20,000/-.

13. In view of the above discussion, the total compensation is enhanced to Rs. 2,20,000/- from Rs. 1,80,000/- with interest on the differential amount @ 7.5% per annum from the date of filing of the petition till realisation and the same should be paid to the appellants by the respondent insurance company in the same proportion as awarded by the tribunal.

14. With the above direction, the present appeal is disposed of.