

Kanak Lata and Another Vs. Sh. Ranjit Singh and Others

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Court : Delhi

Decided On : Feb-10-2000

Reported in : I(2000)ACC348; 2001ACJ1933; 2000IIAD(Delhi)758;
84(2000)DLT266; 2000(53)DRJ78

Judge : Vijender Jain, J.

Acts : Motor Vehicle Act, 1988

Appeal No. : F.A.O. No. 144 of 1986

Appellant : Kanak Lata and Another

Respondent : Sh. Ranjit Singh and Others

Advocate for Pet/Ap. : Ms. Manjeet Chawla, Adv

Judgement :

ORDER

Vijender Jain, J.

1. Aggrieved by the order passed by the Motor Accident Claims Tribunal, the widow of deceased and minor daughter have filed the present appeal against the respondents.

2. Respondent No.1 was the driver of the vehicle and respondent No. 2 was the owner of the vehicle. Respondent No. 3 is Insurance Company. In spite of various opportunities, nobody appeared on behalf of the respondents. Learned Counsel for the appellants has contended that the Tribunal did not take into consideration that the deceased was 35 years old at the time of his death. He was serving in Indian Air Force and was getting Rs.1250/- per month and after his successful service in the Indian Force, he was working as a Liaison Officer of Kingston Electronics and he was getting Rs.1,400/- per month.

3. Learned counsel for the appellants has also placed on reliance on PW.8/1 and has contended that the Tribunal has lost sight of the fact that after six months of the appointment of the deceased with Kingston Electronics, it was stated in PW.8/1 which was the letter of appointment that the salary of the deceased would be increased after six months. What has been contended before me that the future promotions and other emoluments which would have been received by the deceased has not been taken into consideration by the Tribunal. It has also been contended that 1/3rd allowance has been deducted from the total income of the deceased. According to counsel for the appellant this is on the higher side and the appellant would not have spent that much of amount on himself.

4. Another contention of learned counsel for the appellants is that the impugned order awarding an amount of Rs. 7,000/- to be paid by the owner was also contrary to law as a separate premium was charged by the Insurance Company covering public risk.

5. I have heard arguments advanced by learned counsel for the appellants.

6. Let me first deal with the multiplier as fixed by the Tribunal. Tribunal has taken into consideration the multiplier of fourteen while awarding compensation. In view of the fact that the deceased was employed with Kingston Electronic Liaison Officer after his service with the Indian Air Force on a consolidated salary of Rs. 1,400/- per month (Ex. PW. 8/1) his salary was to increase after successful completion of six months of probation period, there was a likelihood of his getting more salary and subsequent promotions in his life. Even otherwise, the multiplier of fourteen keeping in view the age of deceased who was 35 years old was not

enough in view of Schedule 2 appended with the Motor Vehicle Act where the deceased would fall in the category of those persons who would be entitled to multiplier of sixteen. therefore, taking into consideration the totality of circumstances, I hold that multiplier of sixteen ought to have been made applicable in the case of the deceased. Calculating on the basis of multiplier of sixteen, the total compensation would work out to be Rs. 1,78,560/-. To my mind, there is force in arguments of learned counsel for the appellants that liability ought to have been that of the Insurance Company instead of owner as the Insurance Company neither produced the original policy before the Tribunal nor brought any tariff and did not dispute the factum that it was a policy covering public risk. therefore, I set aside the finding of the Tribunal on that account and hold that the Insurance Company is liable to pay whole amount of compensation.

7. Apart from the above, learned counsel for the appellants has contended that a sum of Rs.10,000/- would be just compensation on account of funeral charges, loss of estates and loss of consortium. I agree with the submissions of learned counsel for the appellants and direct respondent No. 3 to pay Rs.10,000/- to the appellants.

8. I direct respondent No. 3 to pay an amount of Rs.38,560/- after deducting the amount of Rs. 1,50,000/-, which has already been paid, with interest @ Rs. 6% per annum from the date of the petition.

9. The appeal is allowed.