

Mrs. Elizebeth Mathew and ors. Vs. Vasdev and ors.

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SooperKanoon Citation : sooperkanoon.com/702129

Court : Delhi

Decided On : Feb-12-1991

Reported in : I(1991)ACC559

Judge : R.L. Gupta, J.

Appellant : Mrs. Elizebeth Mathew and ors.

Respondent : Vasdev and ors.

Judgement :

R.L. Gupta, J.

1. This application has been filed for review of an order dated 4.10.89 by which this Court enhanced the compensation amount to Rs. 2, 68, 800/- from Rs. 65, 510/- as awarded by the Motor Claims Accident Tribunal. The appeal was actually heard in the absence of learned Counsel for the Insurance Company because nobody appeared on behalf of the Insurance Company. therefore, in the interest of justice the arguments have practically been reheard to find out whether actually there is any error in the aforesaid judgment.

2. I have heard the learned Counsel for the parties. The arguments are mainly addressed on the point of the monthly dependency available to the legal representatives of the deceased Thomas Mathew and the multiplier applied by the Learned Tribunal. On the point of monthly dependency, learned Counsel for the

respondent has drawn my attention to the statement of some of the witnesses. PW-3 is the wife of the deceased. In her examination-in-chief she deposed that the salary of the deceased was little over Rs. 1000/- per month besides other benefits and he was contributing Rs. 900/- per month for meeting the house hold expenses. On behalf of the respondent RW-1 Mohd. Hussain, Section Officer in the office of Controller General of defense Accounts. R.K. Puram was examined. The deceased had been working in that department. He gave his total emoluments in January, 1974 at Rs. 1, 326.50 P. He also deposed that the deceased was deducting Rs. 50/- per month towards GPF. Other deductions have not been mentioned in his statement. However, the wife of the deceased who is quite an educated woman would be the best person to know regarding the monthly amount contributed by the deceased towards house hold expenses. thereforee, the contribution of the deceased towards house hold expenses should be actually taken at Rs. 900/- per month. learned Counsel for the respondent has rightly argued that the family of the deceased comprised of himself and four other dependent members who filed this claim petition. In this manner, thereforee, being five members in all, a sum or Rs. 180/- per month would be spent upon the deceased himself towards his food etc. in the home. Deducting that amount the monthly dependency would come to Rs. 720/- per month. The learned Tribunal, however, took the monthly dependency at Rs. 600/- per month only stating that roughly 1/3rd of his contribution should be adjusted towards the personal expenses of the deceased. In this respect it may be noted that the wife as well as the Section Officer from the department of the deceased have stated that the salary of the deceased was actually more than that. thereforee, it can be safely presumed that the deceased was spending the additional part of his salary upon himself for going to and coming from office. The statement of the wife has not been shaken in cross-examination on behalf of the Insurance Company. There was no suggestion even in her cross-examination if the contribution of the deceased was less than Rs. 900/- per month. thereforee, the monthly dependency should be taken at Rs. 720/- per month at least. It may also be noted that if the deceased had continued to serve in his department, he would have also earned promotion and increments. But the same are not being taken into consideration because the wife of the deceased is admittedly getting a pension of Rs. 120/- per

month after the death of her husband. thereforee, it will be quite reasonable to take the monthly dependency of the family of the deceased at Rs. 720/-.

3. The age of the deceased was undisputably 30 years at the time of the accident. A multiplier of 20 was adopted by the learned Tribunal. So far as the question of multiplier is concerned. I think the multiplier of 20 adopted by the Tribunal was not appropriate. The deceased met with this fatal accident at the age of 30 years only and by all standards the multiplier of at least 28 should have been adopted because the deceased would have remained in service till the age of 58 years. There is no doubt that there is uncertainty of life in the modern age because of many pressures working upon the mind of a person. But at the same time, it is also a fact that in majority of the cases Govt. servants survive for many years after retirement. The basic idea, thereforee, is to award a reasonable compensation to the heirs of a deceased and by no stretch of imagination, an exact figure can ever be reached. I do not, thereforee, find any reason to change my view in this respect. Quantum of compensation by applying a multiplier of 28 comes to Rs. 2, 41, 920/-. The amount of compensation is accordingly increased to the aforesaid amount. Respondent shall deposit the aforesaid amount before the Tribunal after deducting the amount which already might have been deposited, within 8 weeks. Out of the excess amount awarded by this Court a sum of Rs. 20, 000/- each shall be paid to the father and mother of the deceased. If the amount is not deposited within the aforesaid period, the insurance company shall be liable to pay interest at the rate of 6 per cent per annum from today. RA stands disposed off.