

Rani and ors. Vs. Sahabuddin and ors.

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Court : Delhi

Decided On : Nov-07-2003

Reported in : 2006ACJ837

Judge : Pradeep Nandrajog, J.

Appeal No. : F.A.O. No. 278 of 1989

Appellant : Rani and ors.

Respondent : Sahabuddin and ors.

Advocate for Pet/Ap. : Y.R. Sharma, Adv

Judgement :

Pradeep Nandrajog, J.

1. By an award dated 31.7.1989 the learned M.A.C.T. has awarded a sum of Rs. 1,80,000 as compensation to the appellants to be shared in the manner as contained in the award.

2. On 15.1.1987 the deceased Ramesh Kumar, who was employed as a driver was driving a car when the same met with an accident with a bus driven by the respondent No. 1 and owned by the respondent No. 3. It has been held in the impugned award that the accident took place due to negligent driving of the bus by the respondent No. 1 and the said issue has, therefore, attained finality as the

same has not been challenged by the respondents.

3. In assessing the compensation the learned Claims Tribunal has held that as per Exh. PW3/1, the salary certificate of the deceased, he was earning a salary of Rs. 980 p.m. The deceased was entitled to perks being bonus equivalent to 20 per cent of salary, leave encashment, medical allowance and rent free accommodation. Learned Tribunal valued these perks and held that the gross income of the deceased would be between Rs. 1,100 and Rs. 1,200 p.m. Since the deceased was 32 years of age, a multiplier of 20 was applied. It was held that taking into account the amount which the deceased would have spent on himself, a sum of Rs. 750 p.m. would be the loss to the family. Learned M.A.C.T. also considered that out of the 5 claimants 2 being the parents of the deceased were aged 58 years and 60 years. The two minor children were aged 5 and 9 years. Though not mentioned in the award, learned Counsel for the appellants states that widow was aged about 26 years. Learned Tribunal has kept in mind the fact that the parents would not have lived for too long and also the fact that the minor children would have remained dependent on their father till the age when the daughters would have got married and the son would have got employed.

4. Learned counsel for the appellants fairly conceded that in view of the fact that the age of the parents of the deceased was 58 and 60 years respectively, two minor children were aged 5 and 9 years, the multiplier of 20 could not be faulted with. However, the learned Counsel contended that the award suffers from three glaring infirmities. The same being:

(i) On the basic salary of Rs. 980 p.m. which the deceased was earning, 20 per cent bonus, leave encashment equivalent to one month salary and medical allowance equivalent to one month salary and value of rent free accommodation, by no stretch of imagination would result in the gross emoluments being valued at Rs. 1,100-Rs. 1,200 p.m.

(ii) Benefit of increase in earnings has not been given.

(iii) No amount has been awarded towards loss of consortium to the wife and loss of father's love and affection and care to the children besides damages for pain,

suffering to the deceased.

5. As per Exh. PW3/1, the deceased was admittedly earning Rs. 980 p.m. and was entitled to the perks stated herein. The accident took place on 15.1.1987. Even a single room tenement was not available in Delhi in the year 1987 at a rent of less than Rs. 400 p.m. Deceased was entitled to rent free accommodation and to 20 per cent of his wages as bonus, besides one month salary on account of leave encashment and medical allowance. Thus the value of the perks would be 75 per cent of the salary earned. Accordingly, the total emolument package payable to the deceased works out to Rs. 1,750 p.m. Admittedly, the deceased was aged 32 years and his wages would have gone up and in the least, doubled. Average mean emolument package being Rs. 2,500 approximately.

6. On a consideration of the totality of circumstances, I am of the opinion that it would be safe to assess the compensation treating Rs. 2,500 p.m. to be the basis on which the compensation is to be determined. Considering that the deceased had two aged parents, a wife and two children, coupled with the fact that the parents would have remained dependent for 7 to 10 years and the children would have remained dependent for 12 to 15 years, which would have resulted in the deceased having less dependency on him, thereby making more sum available to the deceased for self spending. I am of the opinion that it would be safe, just, proper and equitable to determine dependency of the family at Rs. 1,500 p.m. The annual dependency thus works out to Rs. 18,000. Applying multiplier of 20 the compensation payable works out to Rs. 3,60,000. For loss of consortium and pain and suffering to the deceased I grant Rs. 20,000. Total compensation, therefore, comes to Rs. 3,80,000.

7. Considering that sum of Rs. 2,00,000 is being awarded by me as the enhanced compensation, coupled with the fact that a major benefit thereof would have accrued to the widow, I direct that the enhanced compensation in the sum of Rs. 2,00,000 shall be apportioned, in that, appellant No. 1 shall receive Rs. 1,20,000 and appellant Nos. 2 to 5 shall receive Rs. 20,000 each. The enhanced compensation shall carry interest at 9 per cent per annum.

