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Court : Delhi

Decided On : Jan-24-2008

Reported in : 2008ACJ2182

Judge : Kailash Gambhir, J.

Acts : Minimum Wages Act; Motor Vehicles Act

Appeal No. : M.A.C. Appeal Nos. 1070-75 of 2006

Appellant : Kanwar Devi and ors.

Respondent : Bansal Roadways and ors.

Advocate for Def. : Sameer Nandwani, ; Kamaldeep and ; B.B. Singh, Advs.

Advocate for Pet/Ap. : S.N. Parashar, Adv

Judgement :

Kailash Gambhir, J.

1. By way of the present appeal the appellants seek to challenge the impugned award whereby the compensation of Rs. 4,93,700 has been awarded along with interest at the rate of 6 per cent per annum from the date of the filing of the petition till realisation.

2. Brief summary of the facts of the case are:

Deceased Jagdish was peddling his bicycle on 20.8.2004 and was proceeding towards Piyo Manihari, village Kondli from his house. At about 7.45 a.m., when he reached near Batra Petrol Pump, Singhu Border, G.T. Road, Delhi, a truck bearing registration No. HR 38-M 4055 driven by its driver at a high speed, rashly and negligently came from back side and hit the bicycle of the deceased, due to forceful impact of which he sustained grievous injuries all over his body and succumbed to the injuries sustained in the accident.

The main grievance of counsel for the appellants is on four grounds. The first is that the Tribunal has not considered the correct wages given under the Minimum Wages Act of a non-matriculate. The second contention raised by the counsel for the appellants is that the Tribunal has not given the benefit of increase in the wages under the Minimum Wages Act. The third contention raised by the appellants is that the deceased was survived by a large family of seven dependent members, but still 1/4th deduction towards personal expenses has been made. The last contention made by the appellants is that interest of 6 per cent as awarded by the Tribunal is on the lower side.

3. Per contra, counsel appearing for the respondent contends that the Tribunal has granted just and fair compensation keeping in view the facts and circumstances of the case. Counsel contends that no fault can be found with the findings of the Tribunal as far as the income of the deceased was concerned as no documentary evidence was placed on record to believe the income of the deceased as claimed by him in the claim petition.

4. I have heard learned Counsel for the parties and have perused the record. The appellants have proved school leaving certificate as Exh. PW1/RB, which clearly shows that the deceased had passed the middle standard and, therefore, the wages of non-matriculate as laid down under the Minimum Wages Act should have been taken into consideration by the Tribunal. The wages of non-matriculate for the relevant period are Rs. 3,087 as laid down under the Minimum Wages Act and, therefore, the monthly income of the deceased can be taken at Rs. 3,087 in place of Rs. 2,900 as assessed by the Tribunal.

5. As regards compensating the appellants towards the increase in the minimum wages, this Court has already taken view in a number of judgments that in a period of 10 years the minimum wages almost get more than doubled and, therefore, the same criteria can also be made applicable in the present case. The increase in the minimum wages is not akin to the future prospects as the said increase takes place so as to meet the price index and inflation rate and are subject to periodical revision by the government as per the provisions of the Minimum Wages Act. The multiplier of 17 has been applied in the present case as per the Second Schedule to the Motor Vehicles Act and, therefore, safely the income of the deceased in this period can be taken to have doubled, i.e., Rs. 6,174 and taking an average of the same the monthly income of the deceased can be taken at Rs. 4,630.50. The deceased is survived by a large family of dependent members and, therefore, I do not find myself in agreement with the finding of the Tribunal deducting 1/4th of the income towards personal expenses. The deceased died at a quite young age leaving behind him very large family including the small children, therefore, the said deduction does not appear to be justified. Keeping in view the said large family of the deceased deduction to the extent of 1/6th is allowed for personal expenses. Deducting the said 76th deduction towards personal expenses the total loss towards financial dependence would come to Rs. 7,87,185. The Tribunal has also granted a lower rate of interest at the rate of 6 per cent per annum, which is raised to 7.5 per cent per annum. The same shall be payable by the respondent on the differential amount from the date of the filing of the petition till realisation.

In the light of the above discussion, the appellants are held entitled to a sum of Rs. 8,37,185 towards compensation and since the respondents have already paid the amount in terms of the award, the differential amount of Rs. 3,43,485 shall now be paid by respondent along with up-to-date interest at the rate of 7.5 per cent from the date of the filing of the petition till realisation.

With these directions, the appeal stands disposed of.