

(2011) 07 DEL CK 0030

Delhi High Court

Case No: FAO 572 of 2001

B.L. Singhal and Another

APPELLANT

Vs

Inderjit Singh and Others

RESPONDENT

Date of Decision: July 25, 2011

Acts Referred:

- Motor Vehicles Act, 1939 - Section 110A, 92A

Hon'ble Judges: Reva Khetrapal, J

Bench: Single Bench

Advocate: Navneet Goyal and Gurpreet Kaur, for the Appellant; None, for the Respondent

Judgement

Reva Khetrapal, J.

The present appeal has been filed by the Appellants against the judgment and award of the Motor Accidents Claims Tribunal dated 17.08.2001 passed in Suit No. 22/88 seeking enhancement of the awarded amount.

2. The facts relevant for the decision of the present appeal are that on 28.08.1987 at about 3.15 p.m., one Manish Singhal (hereinafter referred to as "the deceased") was going towards the High Court from Shakarpur on his two-wheeler scooter No. DDU 3690. When he reached Ring Road, near Railway Line, bus No. URP 8932, being driven rashly and negligently by the Respondent No. 1 hit the scooter of the deceased from the rear left side, as a result whereof the deceased fell down and sustained grievous injuries to which he succumbed on 02.09.1987. A claim petition was filed by the Appellants, who are the parents of the deceased, under Sections 92A and 110A of the Motor Vehicles Act, 1939 claiming compensation in the sum of Rs. 10,96,000/- for the untimely demise of their son.

3. The Claims Tribunal, after recording a finding that the deceased-Manish Singhal had died due to the accident dated 28.08.1987 as a result of the rash and negligent driving of the offending bus by the Respondent No. 1, held the Respondents No. 1 and 3 jointly and severally liable to pay compensation to the Appellants in the sum

of Rs. 1,90,000/- along with interest at the rate of 9% per annum from the date of filing of the petition till realization of the award amount. The Tribunal, for the purpose of quantifying the aforesaid compensation payable to the Appellants, came to the finding that in the facts and circumstances of the case, the deceased must have started earning at least Rs. 3,000/- per month from the year 1989 or 1990, that is, after completing his B. Tech in 1988 and thus, proceeded to calculate the compensation on the basis of aforesaid monthly salary of the deceased. The Tribunal further observed, relying upon the decision of the Hon"ble Supreme Court in the case of [U.P. State Road Transport Corporation and Others Vs. Trilok Chandra and Others,](#), that had the son of the Appellants not died in the accident, he would eventually have got married and after his marriage, there would have been four members in the family of the deceased. Considering each adult family member as two units as per the aforesaid decision of Supreme Court, the Tribunal held that there would be eight units in the family of the deceased and accordingly, worked out the share per unit as Rs. 375/- per month (Rs. 3000/- ÷ 8= Rs. 375/-). The Appellants, constituting four units, their share was worked out to be in the sum of Rs. 1,500/- per month (Rs. 375 x 4 = Rs. 1,500/-). The said amount of Rs. 1,500/- per month was taken by the Tribunal to be the monthly loss of dependency of the Appellants and the annual loss of dependency of the Appellants was computed to be Rs. 18,000/-. To augment this multiplicand, the Tribunal applied the multiplier of 10 and the total loss of dependency of the Appellants was calculated to be in the sum of Rs. 1,80,000/-. To this amount, the Tribunal added a sum of Rs. 10,000/- by way of loss of the expectation of life. The Tribunal, thus, awarded a sum of Rs. 1,90,000/- to the Appellants along with interest at the rate of 9% per annum from the date of the filing of the petition, that is, 23.02.1988 till the date of realization.

4. Aggrieved by the inadequacy of the amount of compensation, the Appellants have preferred the present appeal against the aforesaid judgment and award of the Tribunal, seeking enhancement of the award amount on following grounds:

(a) The learned Tribunal erred in considering the income of the deceased as only Rs. 3,000/- per month without considering the future prospects of increase in the income of the deceased.

(b) The multiplier adopted by the learned Tribunal was on the lower side.

(c) The non-pecuniary damages awarded by the learned Tribunal were grossly inadequate.

5. Mr. Navneet Goyal, the learned Counsel for the Appellants contended that the deceased was a young boy of 21 years of age and was a student of Final Year of Mechanical Engineering in Banaras Hindu University. He had an excellent academic record and bright future prospects. After the completion of his education, the deceased would have started drawing a salary of Rs. 3,000/- per month and after two years, he would have drawn Rs. 5,000/- per month and subsequently after five

years, he would have started earning Rs. 10,000/- per month. Mr. Goyal further submitted that the Appellants would have received from the deceased at least Rs. 2,000/- per month once the deceased started earning and would have received pecuniary benefit of Rs. 4,000/- per month two years there from.

6. Reference was made by the learned Counsel to the testimony of PW5 Shri B.L. Singhal, the father of the deceased, wherein he stated that the deceased, who was his eldest son, was excellent in his studies and used to secure more than 80% marks. He stated that U.G.C. had offered him a scholarship of Rs. 200/- per month in the year 1985. He further stated that the deceased was planning to go to USA for seeking employment, for which he had also taken the GRE Examination. He proved on record the original educational certificates and other certificates of the deceased (collectively marked as Ex. PW-5/1 to PW-5/31) including Ex.PW5/18 which is the certificate showing that the deceased passed his Delhi Secondary School Examination in the year 1981, Ex.PW5/17, which is the mark sheet of the deceased for the Senior School Certificate Examination of the year 1983, Ex.PW5/12 and 13, which are the mark sheets of the deceased for fifth and sixth semester examinations respectively of Mechanical Engineering pertaining to the academic year 1986-87, and the passport of the deceased Ex.PW5/23.

7. This Court did not have the advantage of hearing the Respondents, who remained unrepresented. However, the records of the learned Tribunal were requisitioned and made available to enable this Court to ascertain and evaluate the income of the deceased.

8. It is apparent from the records that the deceased was a student of final year of Mechanical Engineering, that he was a consistent academic performer and was also active in extra-curricular activities. The academic record of the deceased in fact reflects that he would have most certainly risen in his professional life too. Thus, in my view, it is just and proper that the future prospects of the deceased be given due consideration while computing the compensation payable to the Appellants on account of their loss of dependency. The deceased was barely 21 years of age and with the passage of time his salary was bound to increase by at least 50% more than his salary at the beginning of his career. I am fortified in coming to this conclusion from the guidelines laid down by the Supreme Court in the case of [Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another](#),

9. The compensation awarded to the Appellants, thus, needs to be re-computed. As far as the monthly salary of the deceased is concerned, the same may be taken at Rs. 3,000/- per month as has been ascertained by the learned Tribunal. However, as explained hereinabove, future prospects to the extent of 50% ought to be added to this amount and monthly salary of the deceased, thus, comes to Rs. 4,500/- per month (Rs. 3,000/- + Rs. 1,500/-). Considering that the deceased was a bachelor and was survived by two dependents, namely, the Appellants No. 1 and 2, one-half of the salary is liable to be deducted towards the personal expenses of the deceased and

the resultant loss of dependency of the Appellants thus comes to Rs. 2,250/- per month or say Rs. 27,000/- per annum.

10. As regards the multiplier, it was contended by Mr. Goyal that the mother of the deceased was of 43 years of age at the time of the accident and in consonance with the judgment of the Supreme Court in the case of Sarla Verma (supra), the appropriate multiplier for the age group of victims between 41 years and 45 years of age is the multiplier of 14. I am inclined to accept the aforesaid contention of Mr. Goyal. The multiplier of 10 as adopted by the Tribunal is thus held to be on the lower side and accordingly enhanced to 14. Augmenting the multiplicand of Rs. 27,000/- by the multiplier of 14, the total loss of dependency of the Appellants comes to Rs. 3,78,000/-. In addition to this, the Appellants are also held entitled to non pecuniary damages in the sum of Rs. 10,000/- towards the loss of love and affection (instead of the sum of Rs. 10,000/- awarded by the Tribunal towards the loss of expectation of life), Rs. 5,000/- towards the loss of estate of the deceased and Rs. 5,000/- towards the funeral expenses of the deceased, in all, a sum of Rs. 20,000/-. The Appellants are thus held entitled to a total compensation of Rs. 3,98,000/- alongwith interest at the rate of 7.5% per annum on the enhanced amount.

11. The award amount is modified accordingly. The enhanced compensation alongwith interest thereon shall be deposited by the Respondents No. 1 and 3 with the learned Tribunal within a period of 30 days from today. The Tribunal shall direct the apportionment and deposit, etc. of the enhanced amount.

12. The appeal stands disposed of accordingly.

13. The records of the Claims Tribunal be sent back forthwith.

14. A copy of this order be sent to the Respondents No. 1 and 3 for compliance thereof.