

Jai Kishan and Another Vs Balbir Singh and Another

Court: Delhi High Court

Date of Decision: Feb. 28, 1986

Citation: (1986) 10 DRJ 331

Hon'ble Judges: N.N. Goswamy, J

Bench: Single Bench

Advocate: O.P. Goyal and J.N. Aggarwal, for the Appellant;

Judgement

N.N. Goswamy, J.

(1) This first appeal by the claimants is directed against the award dated 17th September, 1981 passed by the Motor Accident Claim Tribunal,

Delhi whereby the claimants were awarded a total compensation of Rs.21,600.00 .

(2) Ashok Kumar deceased who was the son. of the claimants was going on a bicycle on 30th November, 1975 at about 4.00 p.m. when he was

knocked down by a D.T.C. bus bearing No. DLP-1448 which came from Palla side on Delhi Palla Marg. It was alleged that the bus was being

driven rashly and negligently and as a result the accident took place whereby the deceased died. It is not necessary to go into further facts

regarding the negligence because the learned Tribunal has found as a fact that the bus driver was negligent and that finding is not being assailed in

this appeal. The learned Tribunal while deciding the question of compensation came to the conclusion that the deceased was aged about 19 years

and was a student of Xi class. According to the Tribunal, the deceased after doing his graduation Would have earned at least Rs. 400.00 per

month. No exception can be taken to this finding, that is probably on the lower side. The deceased was obviously unmarried and the benefit of his

income at that time would have gone to the claimants, who were the parents. The Tribunal has estimated that the deceased would have contributed

Rs. 100.00 per month for the parents on the basis that after he had got married he had to support his family also. This, in. my opinion, is based

only on conjectures because by the time the deceased would have got married it cannot be said that he would have been earning only Rs. 400.00

per month till then. In the circumstances, I take it that the deceased would have earned Rs. 400.00 and would have contributed at least Rs. 150.00

per month for the parents who are the claimants in the present case. The father of the deceased Was aged about 45 years at the time of the

accident while the mother was aged less than that. By the time this appeal has come up for hearing, the mother had already died and the only

claimant now is the father. The father is also suffering from the disease of cancer. This is, however, not on record but has been stated in court by

the learned counsel for the appellant. In the circumstances, I feel that a multiplier of 16 would meet the ends of justice. Accordingly applying the

multiplier of 16, the compensation comes to Rs. 28,800.00 . The petitioner will also be entitled to interest on the said amount from the date of the"

application for claim at the rate of 9% per annum. I am awarding 9% per annum on the basis that the application was filed in 1975 when the

interest rates were not as high as are to-day.

(3) The appeal is accordingly allowed to the extent that the claimants would be entitled to Rs. 28,800.00 with interest at the rate of 9% per annum

from the date of filing of the application instead of Rs.21,600.00 as awarded by the Tribunal. It is needless to say that while calculating interest, the

amount already paid by the respondents would be taken into consideration and the interest will be calculated accordingly. The appellants will also

be entitled to costs of this appeal. Counsel's fee Rs. 500.00 .