

(2001) 03 DEL CK 0145

Delhi High Court

Case No: LPA 4 of 1994

Ved Vati and Others

APPELLANT

Vs

Chatter Singh and Others

RESPONDENT

Date of Decision: March 13, 2001

Citation: (2001) 1 ACC 496 : (2002) ACJ 923

Hon'ble Judges: M.S.A. Siddiqui, J; B.A. Khan, J

Bench: Division Bench

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

Final Decision: Dismissed

Judgement

B.A. Khan, J.

One Narender Kumar, 38, working as Doctor in MCD died in a road accident on 29.2.1980 involving two DTC buses. His LRs filed Claim Suit No. 158/1980 claiming compensation of Rs. 6,62,000/-. But MACT assessed his dependency at Rs. 1,305/- and awarded compensation of Rs. 3,56,223/- with 9% interest applying a multiplier of 32 to it vide award dated 28.2.1983.

2. Two appeals were filed against this award. One (FAO 136/1983) by the appellants and the other (FAO 110/1983) by DTC. Appellants' first appeal was disposed off by raising rate of interest to 12% and that DTC was dismissed.

3. Appellants have filed this appeal now seeking further enhancement of compensation. Their case is that they had filed an application (C.M.617/1993) 22.2.1993 Along with communication of Dy. Heath Officer of MCD containing details of deceased's salary till his retirement if he had survived which was rejected and the document containing salary particulars disregarded. It is submitted on the basis of this document that the earning of deceased could have been 10,49,679.15 and if 1/3rd of this amount was deducted for his personal expenses, his annual dependency would work out to Rs. 72,000/-, which if capitalised by appropriate multiplier of 15 would take the compensation amount to Rs. 10,50,000/- Reliance in

this regard is placed on some Supreme Court judgments including " [Smt. Manjushri Raha and Others Vs. B.L. Gupta and Others](#), " New India Assurance v. Kala Devi and Ors, 1996 ACJ 16; 1 (1996) ACC 291 (SC) [General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others](#), to urge that the Apex Court had taken in regard the future prospects of the deceased employees for assessing their income which also included 3rd Pay Commission Revision etc. It is, Therefore, prayed that judicial notice was required to be taken of the document placed by appellants on record vide their C.M. No. 617/1993.

4. There is no dispute with the proposition that future advancement in life and career of the deceased accident victim could form a valid factor/consideration for determination of his/her gross income as held by the Supreme Court in Susamma thomas's case and as followed by us in a number of cases. But this was not to be done as a matter of course or on taking judicial notice. On the contrary some proof was required to be furnished for this. It was for the claimants to adduce appropriate proof to substantiate their claim in this regard. Therefore, no judicial notice could be taken of any Pay Revision that might have been generally ordered or future salary position of a deceased as a matter of course.

5. In the present case we notice appellant's application (C.M. 617/1993) was opposed by respondent-Insurance Company and it was refuted that the document submitted and purported to be issued and executed by the Dy. Health Officer represented the correct picture of the salary details of the deceased. Therefore once the correctness of the document was disputed, it was for appellants to lead proper evidence that show the genuineness of this document and what it contained. Having failed to do so, First Appellate Court was justified in rejecting their application by distinguishing the judgments cited by learned Counsel for appellant.

6. In the circumstances, I find no scope to interfere because judicial notice was not liable to be taken of the document purported to be issued by Dy. Health Officer containing future salary details of the deceased Doctor after its correctness was disputed by other side. Appellants ought to have led requisite evidence to prove the genuineness of this document and having failed to do so, they could not turn round and ask the Court to take judicial notice of the documents, even if it was to be considered a public document for some purpose.

7. Apart from this, we find that Tribunal and First Appellate Court had concurred in their findings with regard to assessment of income and determination of dependency and application of multiplier. It was not for us in this LPA to disturb these findings unless it was shown that some glaring mistake or perversity was committed by the Courts below.

8. For the reasons given, we find no merits in the appeal, which is dismissed.

9. Appeal dismissed.