

IN THE HIGH COURT OF DELHI AT NEW DELHI

FAO No. 291/2002

Judgment delivered on: 04.03.2008

Shri Chet Ram through L.R. Appellants.

Through: Mr. Manish Mannie, Adv.

versus

Shri Ramesh Arora & Ors. Respondents

Through: Mr. Pankaj Seth, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE KAILASH GAMBHIR,

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| 1. Whether the Reporters of local papers may be allowed to see the judgment? | No |
| 2. To be referred to Reporter or not? | No |
| 3. Whether the judgment should be reported in the Digest? | No |

KAILASH GAMBHIR, J. Oral:

By way of the present appeal the appellant seeks modification of the impugned Award dated 2.3.2002 for enhancement in the compensation amount over and above the amount of Rs. 1,90,000/- awarded by the Tribunal. Brief

summary of the facts of the present case are that on 6.12.85 Smt. Parwati and her husband were coming back to their residence and were walking on foot on the proper side of the road and when at about 11.00 a.m. they reached near Boys Hostel, Jamia College, Okhla, New Delhi, at that very time a Motor Cycle bearing registration No. DEV-8902 driven by respondent No. 1 in a fast speed and in rash and negligent manner came from behind and struck against the deceased. Due to this forceful impact the deceased received grievous injuries and died due to those injuries.

Counsel appearing for the appellant contends that the Tribunal has wrongly applied the multiplier of 5 although, the applicable multiplier under the Second Schedule of the Motor Vehicles Act is 8 taking into consideration the age of the deceased at 57 years. Even the meager amount of Rs. 10,000/- has been awarded by the Tribunal towards the loss of love and affection. Mr. Pankaj Seth appearing for the insurance company submits that the Tribunal has awarded fair and reasonable compensation in favour of the appellant and no reasons have been disclosed by the appellant justifying further enhancement in the compensation amount.

I have heard learned counsel for the parties and have perused the record.

The deceased was a female of 57 years of age. The Tribunal has assessed the income of the deceased at Rs. 3,000/-per month after taking into consideration the authoritative pronouncement of the Supreme Court reported in **Lata Wadhwa & Ors. Vs State of Bihar & Ors 2001 ACJ 1735**. The main grievance raised by the appellant is that the deceased was survived by his son, who is appellant herein and had she remained alive she would have continued to render her services as a household lady. Counsel for the appellant thus contends that the Tribunal should have taken into consideration the multiplier of 8 as laid down in the Second Schedule of the Motor Vehicles Act. Perusal of the Award shows that the Tribunal has given sufficient reasons to deviate from the said multiplier of 8 as laid down in the Second Schedule of the Motor Vehicles Act. In para 14 of the impugned Award the Tribunal has observed that the appellant Shri Kundan Lal was about 30 years of age at the time of accident and was of 45 years of age at the time of his examination in the Court i.e. on 1.9.2000. The Tribunal has also observed that the said Kundan Lal would have married sooner or

later, therefore, he would not have remained dependent on the services of his mother for a very long time. In the statement made by the said appellant he has also stated that he had kept the 'aya' for a period of about 5 years due to the demise of his mother and till the time he got married. It is thus manifest that the appellant got married immediately after the gap of a period of about 5 years from the date of the accident and, therefore, I do not find any reason to interfere with the multiplier of 5 as applied by the Tribunal. Even the grant of Rs. 10,000/- towards loss of love and affection taking in view the year of accident 1985 cannot be considered to be inadequate. No reason to interfere with the Award.

Dismissed.

March 04, 2008
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KAILASH GAMBHIR, J