

\$~R-303

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Decided on: 10th October, 2017

+ **MAC APPEAL No.159/2011**

RAM KISHAN & ORS.

..... Appellants

Through: None.

versus

RAJBIR SINGH & ORS.

..... Respondents

Through: Mr. J.P.N. Shahi, Adv. for R-3.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. Praveen, a bachelor, aged about 22 years, son of the appellants, suffered injuries in a motor vehicular accident that occurred on 17.11.2006 due to negligent driving of motor vehicle described as Rural Transport Vehicle bearing registration no. DL 1VA 3303 (RTV) and died in the consequence. Accident claim case (MACT No. 144/2008) was instituted on 17.07.2007 seeking compensation impleading the driver, owner and insurer of the RTV, they now being first to third respondents in the appeal. The case was clubbed by the tribunal for inquiry with another similarly placed case arising out of the same accident. Both cases were decided by common judgment dated 01.10.2010. In the claim submitted by the appellants, the compensation was awarded in the total sum of Rs. 5,49,000/-, it having been calculated thus:-

S.No.	Heads	Compensation
1.	Loss of dependency	Rs. 4,79,000/-
2.	Loss of love & affection	Rs. 50,000/-
3.	Funeral expenses	Rs. 10,000/-
4.	Loss to estate	Rs. 10,000/-
	Total	Rs. 5,49,000/-

2. The liability to pay was fastened on the third respondent with interest @ 9% per annum.

3. The present appeal was filed expressing grievances about the computation of loss of dependency and inadequacy of non-pecuniary damages.

4. The appeal was put in the category of 'regulars' as per order dated 19.04.2012. Upon it being taken up there is no appearance on behalf of the claimants. The matter has been heard with the assistance of counsel for third respondent and by perusal of the record of inquiry before the tribunal.

5. Though the claimants had pleaded that the deceased was earning Rs. 10,000/- per annum from job of film editing, no formal proof in this regard was adduced. The oral word of the first claimant Ram Kishan (PW-1) in this regard is unsubstantiated and cannot be acted upon. In these circumstances, the tribunal was constrained to go by the minimum wages. It took note of the fact that the deceased was a matriculate and correctly adopted the minimum wages payable to a matriculate during the relevant period.

6. In these circumstances, no case is made out for any improvement in the award under the head of loss of dependency.

7. However, the award under the non-pecuniary damages are found to be inadequate. Following the rulings in *Rajesh & Ors. v. Rajbir Singh & Ors.* (2013) 9 SCC 54 and *Shashikala V. Gangalakshamma* (2015) 9 SCC 150, compensation in the sum of Rs. 1,00,000/- on account of loss of love & affection and Rs. 25,000/- each towards loss of estate and funeral expense are added. Thus, there will be net increase in the award by Rs. 80,000/-. The increased portion of the award shall carry interest as levied by the tribunal and fall to the share of the second appellant Jeet Kaur (mother).

8. The insurer is directed to satisfy the modified award by requisite deposit with the tribunal within thirty days, making it available to be released.

9. The appeal is disposed of in above terms.

R.K.GAUBA, J.

OCTOBER 10, 2017

nk