

Smt. Chameli Wati and Another

Vs

Municipal Corporation of Delhi and Others

Civil Appeal No. 2698 of 1985

(P. N. Bhagwati, D. P. Madon, A. N. Sen JJ)

25.04.1985

JUDGMENT

1. Leave granted.

2. We are of the view that the Division Bench of the High Court erred in the exercise of its discretion under Section 110-CC of the Motor Vehicles Act, 1939 in not awarding interest on the amount of compensation finally determined by it from the date of the application. It is undoubtedly true that under Section 110-CC, the Division Bench of the High Court had discretion to award interest at such rate and from such date not earlier than the date of the application as it may think fit in the exercise of its discretion. But it is well settled that every discretion conferred by statute must be exercised judicially on the basis of the facts and circumstances of a particular case. Here when the learned Single Judge enhanced the amount of compensation, he awarded interest on the enhanced amount at the rate of 6 per cent per annum from the date of his judgment and the Division Bench also when it further enhanced the amount of compensation, directed that interest at the rate of 6 per cent per annum be paid on the enhanced amount from the date of its judgment and not from the date of the application. The learned Single Judge as well as the Division Bench totally ignored the fact that the enhanced amount of compensation awarded by them was in their judgment the correct amount of compensation payable to the appellants on account of the death of the deceased resulting from the accident. The learned Single Judge and the Division Bench should have therefore awarded interest on the enhanced amount of compensation from the date of the application. We accordingly set aside the judgment of the Division Bench as also the judgment of the learned Single Judge insofar as these judgments direct that interest shall be payable on the enhanced amount of compensation from the date of the respective judgments and instead, we direct that interest shall be payable on the enhanced amount of compensation as finally determined by the Division Bench at the rate of 12 per cent per annum from the date of the application for compensation. The respondents will of course get credit for the amounts already paid by them to the appellants from time to time and interest shall be calculated taking into account such payments. The amount directed to be paid to the appellants under this order shall be paid within two months from today. The respondents will pay the costs of the appellants quantified at Rs. 5000.

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