
(2011) 12 DEL CK 0120
In the Delhi High Court
Case No : MAC App. 581 of 2011

Bajaj Allianz General Insurance Co. Ltd.	APPELLANT
Vs	
Sant Ram @ Sant Ram Singh and Others	RESPONDENT

Date of Decision : 19-12-2011

Acts Referred:

Citation : (2011) 12 DEL CK 0120

Hon'ble Judges : G.P. Mittal, J

Bench : Single Bench

Advocate : Neerja Sachdeva, for the Appellant; Kanwal Chaudhary, Advocate for Respondent Nos. 1, 2 and Mr. G.M. Kaura, Advocate for Respondent Nos. 3 and 4, for the Respondent

Judgement

G.P. Mittal, J.—Aggrieved by the quantum of compensation, the Appellant Bajaj Allianz General Insurance Company Limited impugns the award dated 21.03.2011 passed by the Motor Accident Claims Tribunal (the Tribunal) whereby a compensation of Rs. 8,81,000/- was awarded in respect of the death of Dinesh Kumar who was aged about 22 years on the date of the accident which took place on 14.12.2009. The contentions raised on Appellant's behalf are:-

(i) Multiplier of 13 ought to have been applied by the Tribunal instead of 17, according to the age of the mother.

(ii) Award of Rs. 3,00,000/- on account of loss of love and affection was exorbitant and excessive.

2. It is well settled that while applying the multiplier, the age of the Claimant or that of the deceased whichever is higher is to be considered. (U.P. State Road Transport Corporation and Others Vs. Trilok Chandra and Others,).

3. In the case of death of a bachelor the multiplier will be as per the age of the mother of the deceased.

4. This is admitted that the deceased was a bachelor and therefore, 50% has to

be deducted towards the deceased's personal expenses. The deceased's income was established as Rs. 5500/-per month, applying the multiplier of 13 according to the age of the deceased's mother (i.e. 47 years), the dependency works out as Rs. 4,29,000/- (` 5500/- x 12 - 50% x 13).

5. The Tribunal granted a sum of Rs. 3,00,000/- towards loss of love and affection. The Tribunal gave the following reasons to award a sum of Rs. 3,00,000/- as under:-

...The deceased Dinesh was aged about 22 years of age at the time of his death. It was claimed by PW-1 during course of his cross examination that his eldest son is not traceable. Loss of yet another son, in considered opinion of this court must have been unbearable for the petitioners. It is obvious that they must have undergone more mental shock and torture on seeing the dead body of their 22 years old son. It not impossible, it is extremely difficult to quantify non pecuniary compensation as it is based upon the sentiments and emotions. However, the same cannot be a ground for non-payment of any amount in that regard. It is true that human life cannot be measured only in terms of loss of earnings or monetary losses alone. Emotional attachment and loss of child can have a devastating effect on the family which cannot be easily visualized and understood. Although no amount can be quantified in this regard, in considered opinion of this court, ends of justice would be met in case petitioners are awarded sum of Rs. 3 lacs as compensation under this head....

6. The compensation of Rs. 3,00,000/- awarded towards love and affection is on the higher side. The trend of the High Courts and the Supreme Court is to award a nominal sum under the head of loss of love and affection when the loss of dependency is fully taken care of. In the latest judgment of the Supreme Court in Sri. K.R. Madhusudhan and Others Vs. The Administrative Officer and Another, a sum of Rs. 25,000/- was awarded towards loss of love and affection.

7. The revised compensation works out as under: -

1. Loss of dependency 4,29,000/-
 2. Loss of love and affection 25,000/-
 3. Loss of estate 15,000/- (as granted by the Tribunal)
 4. Funeral Expenses 5,000/- (as granted by the Tribunal)
- Total 4,74,000/-

8. The compensation awarded shall carry interest @ 7.5% per annum as awarded by the Tribunal. A sum of Rs. 50,000/- has already been paid as interim compensation. A sum of Rs. 1.5 lacs along with proportionate interest shall be payable to Respondent No. 1 and rest of the amount along with proportionate interest shall be payable to Respondent No. 2. The excess amount along with interest, if any, shall be refunded to the Appellant Insurance Company.

9. The Appeal is allowed in above terms.

10. Pending application also stands disposed of.