
(2012) 03 DEL CK 0513
In the Delhi High Court
Case No : MAC. App. 606 of 2011

Bajaj Allianz General Insurance Co. Ltd.	APPELLANT
Vs	
Smt. Shyama Devi @ Pushpa and Others	RESPONDENT

Date of Decision : 26-03-2012

Acts Referred:

Citation : (2012) 03 DEL CK 0513

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

Bench : Single Bench

Advocate : Atul Nanda, Ms. Rameeza Hakeem, Mr. Khalid Arshad, Mr. Rajat Brar and Ms. Priyadarshi Gopal, for the Appellant; Sartaj Ahmed, with Mr. Surender Kumar, for the Respondent

Judgement

G. P. Mittal, J.—The Appeal is for reduction of compensation of Rs. 12,04,112/- awarded for the death of Kare Din, who died in an accident which occurred on 21.05.2010. The finding on negligence is not challenged by the Appellant Insurance Company.

2. The deceased was aged about 43 years on the date of the accident. During inquiry before the Motor Accident Claims Tribunal (the Claims Tribunal), it was claimed that the deceased was an illiterate person and was working as a labourer. No proof of income of the deceased was filed nor any income was claimed. The Claims Tribunal took the minimum wages of an unskilled worker i.e. Rs. 5278/- per month, added 50% towards inflation, deducted 1/5th towards the personal and living expenses and took the multiplier as 14 to compute the loss of dependency as Rs. 10,64,112/-.

3. The only ground of challenge is that 50% addition on account of future inflation should not have been given.

4. In Dhaneshwari & Another v. Tajeshwar Singh & Others MAC. APP 997/2011 decided on 19.3.2012, after noticing the Judgments of this Court in Smt. Anari Devi Vs. Shri Tilak Raj and Another, , National Insurance Co. Ltd. Vs. Pooja and

Others, Om Kumari & Ors. v. Shish Pal & Ors, 140 (2007) DLT 62, Narinder Bishal & Anr. v. Rambir Singh & Ors., MAC APP. 1007-08/2006, decided on 20.02.2008, New India Assurance Co. Ltd. v. Vijay Singh MAC APP. 280/2008 decided on 09.05.2008; Oriental Insurance Company Limited v. Smt. Rajni Devi & Ors. MAC APP.286/2011 decided on 06.01.2012; Smt. Gulabeeya Devi v. Mehboob Ali & Ors. MAC APP.463/2011 decided on 10.01.2012 and IFFCO TOKIO Gen. Ins. Co. Ltd. v. Rooniya Devi & Ors. MAC APP.189/2011 decided on 30.01.2012 and Division Bench Judgments of this Court in Delhi Transport Corporation and Another Vs. Lalita, and Rattan Lal Mehta v. Rajinder Kapoor & Anr. II (1996) ACC 1 (DB), this Court has held that in view of Rattan Lal Mehta (supra) increase in minimum wages cannot be given on account of future inflation.

5. Thus, the addition on account of inflation could not have been given by the Claims Tribunal.

6. Under the circumstances, the loss of dependency comes to Rs. 7,09,363/- (5278 x 4/5 x 12 x14).

7. In the absence of any challenge to the award of the sums of Rs. 1,00,000/- towards loss of love and affection, Rs. 25,000/- towards funeral expenses, Rs. 10,000/- towards loss of consortium and Rs. 5,000/- towards loss to estate, I would not interfere with the same.

8. Hence, the overall compensation comes to Rs. 8,49,363/- (7,09,363/- + 1,40,000/-), which shall carry interest @ 7.5% per annum from the date of filing of the petition till the date of payment.

9. The compensation is thus reduced from Rs. 12,04,112/- to Rs. 8,49,363/-.

10. The excess amount of Rs. 3,54,749/- along with the proportionate interest and the interest accrued, if any, during the pendency of the Appeal, shall be refunded to the Appellant Insurance Company.

11. If the excess amount has been released, the Insurance Company shall be entitled to apply for restitution as there is no order for stay of the execution of the award.

12. The statutory amount deposited shall be refunded to the Appellant Insurance Company. The Appeal is allowed in above terms.