

(2012) 03 DEL CK 0322
In the Delhi High Court
Case No : MAC. APP. 149 of 2010

Bajaj Allianz General Insurance Company Ltd.	APPELLANT
Vs	
Aasma and Others	RESPONDENT

Date of Decision : 26-03-2012

Acts Referred:

Citation : (2012) 03 DEL CK 0322

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; O.P. Mannie, for R-1 and R-2, for the Respondent

Judgement

G.P. Mittal, J.—The Appeal is for reduction of compensation of Rs. 7,76,000/- awarded for the death of Sharafat Ali, who died in an accident which occurred on 23.04.2008. The finding on negligence is not challenged by the Appellant Insurance Company.

2. During inquiry before the Motor Accident Claims Tribunal (the Claims Tribunal), it was claimed that the deceased Sharafat Ali was working as a rickshaw puller and was earning Rs. 4,500/- per month.

3. In the absence of any documentary evidence with regard to the deceased's employment, the Claims Tribunal took the minimum wages of an unskilled worker i.e. Rs. 3630/- per month, added 50% towards inflation, deducted 1/3rd towards the personal and living expenses and took the multiplier as 17 to compute the loss of dependency as Rs. 7,40,600/-.

4. The age of the deceased, the number of family members and the multiplier has not been disputed by the Appellant. The only ground of challenge is that 50% addition on account of future inflation should not have been given.

5. 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 Company 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. Company 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.

6. In this case, the deceased's income was claimed to be Rs. 4500/- per month and the profession of the deceased was claimed as that of a rickshaw puller. The testimony of the first Respondent regarding the profession or the income was not disputed. Under the circumstances, the loss of dependency comes to Rs. 6,12,000/- ($4500 \times \frac{2}{3} \times 12 \times 17$).

7. The Claims Tribunal awarded a sum of Rs. 10,000/- each towards Loss to Estate and Loss of Consortium, Rs. 5,000/- towards Funeral Expenses and Rs. 10,000/- towards Love and Affection.

8. It is urged by the Learned Counsel for the Respondents that the compensation awarded towards Loss of Love and Affection is very low.

9. The loss of love and affection can never be measured in terms of money. Thus, uniformity has to be adopted by the Courts while granting non-pecuniary damages. The Supreme Court in Sunil Sharma and Others Vs. Bachitar Singh and Others, and in Baby Radhika Gupta and Others Vs. Oriental Insurance Co. Ltd. and Others, granted Rs. 25,000/- (in total to all the claimants) under the head of loss of love and affection. Thus, I would enhance the compensation under this head from Rs. 10,000/- to Rs. 25,000/-.

10. Thus, the overall compensation comes to Rs. 6,62,000/- (6,12,000/- + 50,000/-).

11. The compensation is thus reduced from Rs. 7,76,000/- to Rs. 6,62,000/- which shall carry interest @ 7.5% per annum from the date of filing of the petition till the date of payment.

12. The excess amount of Rs. 1,14,000/- 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.

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