
(2013) 09 DEL CK 0201
In the Delhi High Court
Case No : MAC. App. 592 of 2012

Bharti Axa General Insurance Co. Ltd.	APPELLANT
Vs	
Smt. Pinki and Others	RESPONDENT

Date of Decision : 17-09-2013

Acts Referred:

Citation : (2013) 09 DEL CK 0201

Hon'ble Judges : Suresh Kait, J

Bench : Single Bench

Advocate : Suman Bagga, for the Appellant;

Judgement

Suresh Kait, J.—Instant appeal has been preferred against the impugned award dated 23.04.2012 whereby, Id. Tribunal has granted compensation for a sum of Rs. 18,60,464/- with interest @ 9% from the date of institution of the petition till realization. Id. Counsel for the appellant has argued that the claimants have failed to establish that the deceased was working as a Mason. However, believing on the bald statement of the claimants, Id. Tribunal has considered the monthly salary of the deceased as Rs. 7,826/- per month as per the minimum wages for skilled person.

2. Id. Counsel further submits that Id. Tribunal has erred in awarding future prospects of 50% contrary to the dictum of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another,

3. Third issue argued by the Id. Counsel for the appellant is that Id. Tribunal has wrongly granted Rs. 31,000/- counsel's fee as there is no such provision in the Motor Vehicles Act.

4. As the issue of Counsel's fee is concerned, it has been decided by this court in the case of ICICI Lombard General Insurance Co. Ltd. v. Kanti Devi & Ors. in MAC. A. 645/2012. Therefore, in view of the judgment passed by this court, counsel's fee cannot be granted as the same is contrary to Motor Vehicles Act. Therefore, the impugned award is set aside so far as the counsel's fee is

concerned.

5. On the issue of the deceased being Mason, wife of the deceased has deposed that he was 32 years of age at the time of accident. He was self-employed, working as a Mason and earning Rs. 20,000/- per month. However, she could not produce any proof of his income. Therefore, in the absence of any proof, Id. Tribunal has rightly assessed the salary of the deceased as Rs. 7,826/- per month on the basis of Minimum Wages Act applicable to skilled persons. There is no cross by the appellant on the issue as to whether he was working as a Mason. Moreover, no evidence was led by the appellant to disprove the same.

6. Therefore, Id. Tribunal has not considered the salary of Rs. 20,000/- p.m. as a Mason and granted the compensation as per the minimum wages applicable to skilled persons.

7. As the issue of future prospects is concerned, this has been decided by the Full Bench of the Supreme Court in the case of Rajesh and Others Vs. Rajbir Singh and Others, .

8. Keeping in view the dictum of the aforesaid judgment, I am of the considered opinion that Id. Tribunal has rightly added 50% future prospects as the age of the deceased was 32 years at the time of accident.

9. In view of the above, appeal is partially allowed.

10. Compensation amount (less counsel's fee) with interest accrued thereon be released in favour of the respondents/claimants. Excess amount, if any, with proportionate interest be also released in favour of the appellant with statutory amount.

CM. No. 9700/2012

With the disposal of the appeal itself, this application has become infructuous. The same is accordingly disposed of.