(2012) 01 DEL CK 0386

In the Delhi High Court

Case No : MAC. App. 851 of 2011

ICICI Lombard General Ins. Co. Ltd. — APPELLANT

Vs

Kiran Devi and Others — RESPONDENT

Date of Decision : 17-01-2012

Acts Referred:

Citation : (2012) 01 DEL CK 0386

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

Bench : Single Bench

Advocate : Rajat Brar, for the Appellant; Anshuman Bal, for the Respondent

Final Decision : Allowed

Judgement

G.P. Mittal, J.—The Appellant ICICI Lombard General Insurance Company Limited seeks reduction in the award of compensation of Rs. 6,14,750/- on the ground that there were just two dependants of deceased Vipti Lal who was aged about 60 years at the time of his death.

2. It is urged by the learned counsel for the Appellant that since the deceased was 60 years old, no addition on account of inflation could have been made and there should have been deduction of one-third towards the personal and living expenses of the deceased as there were just two dependants.

3. It is contended that the award of compensation under the heads of loss of love and affection and loss of consortium is excessive.

4. On the other hand, learned counsel for the Respondents supports the award passed by the Motor Accident Claims Tribunal (the Tribunal) on the ground that the multiplier at the age of 60 years is ''9'' whereas the Tribunal selected the multiplier of ''7'' only.

5. I agree with the learned counsel for the Appellant that at the age of 60 years, the benefit of future prospects for increase towards inflation could not have been given. No evidence was led by Respondents No. 1 to 6 to show that apart from a

widow and an old mother any other claimant was dependant on the deceased. Thus, the deduction of one-third should have been made towards the personal and living expenses of the deceased.

6. I may mention that, where the Claimants are entitled to loss of dependency on actual basis, normally a nominal sum is awarded under the head of loss of love and affection. 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 only Rs. 25,000/- (in total to all the claimants) under the head of loss of love and affection. Thus, I would reduce the compensation under this head to Rs. 25,000/- only instead of Rs. 50,000/- as awarded by the Tribunal.

7. A sum of Rs. 25,000/- awarded towards the loss of consortium was also on the higher side, as per Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , it should be between Rs. 5,000/- to Rs. 10,000/- only.

8. The loss of dependency is re-assessed as Rs. 3,96,000/- (Rs. 5500/- x 2 / 3 x 12 x 9). After adding a sum of Rs. 20,000/- towards funeral expenses as granted by the Tribunal, Rs. 25,000/- towards loss of love and affection, Rs. 10,000/- towards loss of consortium and Rs. 10,000/- towards loss of estate, the overall compensation comes to Rs. 4,61,000/-.

9. The compensation is reduced from Rs. 6,14,750/- to Rs. 4,61,000/- and shall carry interest @ 7.5% per annum as awarded by the Tribunal. The amount shall be released in favour of the Respondents in proportion as granted by the Tribunal and shall be released/held in Fixed Deposits in UCO Bank, Delhi High Court Branch, New Delhi as stated in Para 17 to 29 of the impugned judgment.

10. The excess amount alongwith the interest earned, if any, during the pendency of the Appeal, shall be refunded to the Appellant alongwith the statutory amount of Rs. 25,000/-.

11. The appeal is allowed in above terms. No costs.

12. Pending applications also stand disposed of.