

(2012) 01 DEL CK 0268
In the Delhi High Court
Case No : MAC App. 9 of 2012

ICICI Lombard General Ins. Co. Ltd

APPELLANT

Vs

Smt. Rakesh Devi and Others

RESPONDENT

Date of Decision : 04-01-2012

Acts Referred:

Citation : (2012) 01 DEL CK 0268

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

Bench : Single Bench

Advocate : Neerja Sachdeva, for the Appellant;

Final Decision : Dismissed

Judgement

G.P. Mittal, J.

CM APPL.128/2012 (exemption) in MAC APP. 9/2012

Exemption allowed subject to all just exceptions.

Application stands disposed of.

MAC APP. 9/2012 and CM APPL. 127/2012 (stay)

1. The Appellant ICICI Lombard General Insurance Company Limited seeks reduction of the compensation for death of one Parveen Kumar, a young boy aged about 25 years, who was doing BBA from MICI Institution, Shivam Plaza, Hapur Road, Meerut.

2. It is urged by the learned counsel for the Appellant that there was no justification for adding 50% of the income towards future prospects in the absence of any evidence with regard to the deceased's future prospects.

3. During inquiry before the Tribunal, it is averred that apart from pursuing his BBA, the deceased was taking tuitions and was earning Rs. 10,000/- per month. In the absence of any satisfactory evidence produced before the Tribunal that the

deceased was taking tuitions, the Tribunal took the minimum wages of a graduate i.e. Rs. 4700/- per month, added 50% towards inflation on the basis of the judgment of this Court in *Kiran Devi & Ors. v. Surjeet Yadav & Ors.*, MAC APP. No.511/2009 decided on 18.01.2010, deducted 50% towards personal and living expenses (in the case of a bachelor), applied the multiplier of 15 according to the age of the mother and calculated the loss of dependency as Rs. 6,34,500/-.

4. The Tribunal further added a sum of Rs. 10,000/- under the head of love and affection, Rs. 10,000/- towards the loss of estate and Rs. 5,000/- towards funeral expenses. The Tribunal further granted a sum of Rs. 1,68,308/- towards the medical treatment in Anand Hospital on the basis of the actual bills produced before the Tribunal (as the deceased remained under treatment in Anand Hospital before he succumbed to the injuries). Thus, the total compensation of Rs. 8,02,800/- was awarded.

5. In the case of a student pursuing a professional course, the Tribunal is to consider the potential income of the deceased after completion of the course. In the case of *Haji Zainullah Khan (Dead) by Lrs. Vs. Nagar Mahapalika, Allahabad*, death of a young boy, aged 20 years took place in an accident which happened in the year 1972. The deceased was a student of B.Sc Ist year (Biology), a compensation of Rs. 1,46,900/- was held to be on the lower side. It was not interfered and was rounded off to Rs. 1,50,000/- on the ground of long lapse of time since the date of the accident.

6. In *Ganga Devi & Ors. v. New India Assurance Co. Ltd. & Ors.*, MAC APP. 359/2008, decided by this Court on 23.11.2009 which related to the death of a student (studying medicine) doing internship and was to be awarded MBBS degree in a short time, the Tribunal awarded a compensation of Rs. 9,35,352/- on the basis of the minimum wages of a Graduate. This Court observed that although the deceased was getting a stipend of Rs. 5,000/- per month at the time of his death in the accident, he would have ultimately joined as a doctor at a salary ranging between Rs. 16,000/- per month to Rs. 25,000/- per month. Thus, average monthly income of the deceased was taken as Rs. 18,000/- and after adding 50% towards future prospects, the compensation was enhanced to Rs. 21,36,000/-.

7. For adding 50% towards the minimum wages, the Tribunal relied on *Kiran Devi & Ors. (supra)*. The minimum wages are revised not only to meet the inflation but also to improve the standard of living of the lowest paid workers and to give the benefit of growth of GDP.

8. A perusal of the Notifications issued for increase in minimum wages shows that the minimum wages of an unskilled worker as on 01.08.2009 to 31.01.2010 were Rs. 3953/- per month. The same were revised by about 25% w.e.f. 01.02.2010. Thus, there was nothing illegal or improper in granting increase in 50% to the minimum wages as was done by the Tribunal.

9. It is important to note that this case relates to the death of a young boy doing

a professional (BBA) course and in view of the judgments in Kiran Devi & Ors. (Supra), Haji Zainullah Khan (supra) and Ganga Devi & Ors. (supra), his potential income should have been considered by the Tribunal for computation of the loss of dependency.

10. Since this is only Appeal by the Insurance Company, I would not go into the question whether the award of compensation was too low. In any case, it cannot be said by any stretch of imagination that the compensation awarded was excessive or exorbitant.

11. The Appeal is devoid of any merit; the same is accordingly dismissed. No costs.