(2012) 10 DEL CK 0270

In the Delhi High Court

Case No : MAC. App. 754 of 2012

ICICI Lombard General Insurance Co. Ltd. APPELLANT

Vs

Manju and Others RESPONDENT

Date of Decision : 01-10-2012

Acts Referred:
Motor Vehicles Act, 1988 — Section 163A

Citation : (2012) 10 DEL CK 0270

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

Bench : Single Bench

Advocate : Suman Bagga, for the Appellant; Nitin Yadav, for R-1 to R-4, for the Respondent

Final Decision : Allowed

Judgement

G.P. Mittal, J.

CM APPL. 12194/2012 (Delay)

The delay of 60 days in filing the Appeal is condoned.

The Application is allowed.

MAC. APP. 754/2012

1. The Appeal is for reduction of compensation of Rs. 8,32,136/- awarded by the Motor Accident Claims Tribunal (the Claims Tribunal) for the death of Rajeev who died in a motor vehicle accident which occurred on 08.08.2008. It is urged by the Learned Counsel for the Appellant that the Claimants had preferred a Petition u/s 163-A of the Motor Vehicles Act, 1988 (the Act) and thus, the compensation should have been awarded only on the basis of the structured formula where there is a cap of income of Rs. 40,000/- per annum.

2. The Learned Counsel for the Respondents (the Claimants) agree that the compensation has to be awarded only as per the structured formula.

3. This Court in New India Assurance Co. Ltd. v. Pitamber & Ors., MAC APP. 304/2009; Pitamber & Ors. v. Nirdosh Kumar & Anr.. MAC. APP. 345/2009 both decided on 23.01.2012 and Jagdish & Anr. v. Madhav Raj Mishra and Anr. MAC. APP. 190/2011 decided on 19.04.2011; while relying on Deepal Girishbhai Soni and Others Vs. United India Insurance Co. Ltd., Baroda, and The Oriental Insurance Company Limited Vs. Meena Variyal and Others, , held that in a Claim Petition u/s 163-A of the M.V. Act, the compensation has to be awarded on the basis of the structured formula.

4. Applying the above ratio, the loss of dependency comes to Rs. 4,53,333/- (40,000/- x 2/3 x 17).

5. In addition, the Claimants would be entitled to a compensation of Rs. 9,500/- under non pecuniary heads. (i.e. Rs. 2,500/- towards loss to estate, Rs. 5,000/- towards loss of consortium and Rs. 2,000/- towards funeral expenses).

6. The overall compensation thus comes to Rs. 4,62,833/- as against Rs. 8,32,136/- awarded by the Claims Tribunal.

7. The excess compensation of Rs. 3,69,303/- along with proportionate interest and the interest accrued, if any, during the pendency of the Appeal shall be refunded to the Appellant Insurance Company.

8. The compensation awarded shall be disbursed in favour of the Claimants in terms of the order passed by the Claims Tribunal.

9. The statutory deposit of Rs. 25,000/- be refunded to the Appellant Insurance Company.

10. The Appeal is allowed in above terms. Pending Applications also stand disposed of.