(2012) 07 DEL CK 0162

In the Delhi High Court

Case No : MAC. APP. No. 1155 of 2011

ICICI Lombard General Insurance Co. Ltd. APPELLANT

Vs

Rekha Devi and Others RESPONDENT

Date of Decision : 23-07-2012

Acts Referred:

Citation : (2012) 07 DEL CK 0162

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

Bench : Single Bench

Advocate : Neerja Sachdeva, for the Appellant; Rajesh Kumar Singh, for the Respondent

Judgement

G. P. Mittal, J.—The Appeal is for reduction of compensation of Rs. 9,34,612/- awarded by the Motor Accident Claims Tribunal(the Claims Tribunal) for the death of Upender Raut who died in a motor vehicle accident which occurred on 29.03.2010. The finding on negligence is not challenged by the Appellant Insurance Company. Therefore, the same has attained finality.

2. The following contentions are raised on behalf of the Appellant:

(i) Since the Respondent No. 4(the deceased''s father) could not have been considered financially dependent on the deceased, there should have been reduction of 1/3rd instead of 1/4th of the deceased''s income towards personal and living expenses. Reliance is placed on Supreme Court Report in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another,

(ii) The Claims Tribunal erred in making an addition of 30% towards inflation, in the absence of any evidence with regard to the bright future prospects no addition was permissible in the deceased''s income.

(iii) A compensation of Rs. 40,000/- awarded towards loss of love and affection was on the higher side.

3. The Appeal must fail on all the three counts.

4. The Respondent No. 4 (the deceased''s father) was aged 78 years at the time of the accident. The Claims Tribunal dealt with this aspect as under:

....Here in the present case Smt. Rekha Devi in her cross examination categorically stated that her father is a senior citizen and not working anywhere. She also stated that they do not have any agriculture income and any income from other sources so in these premises the plea taken by insurance company is not tenable. Hence 1/4th of this amount is to be deducted on account of personal expenses of the deceased which amount he would have spent on himself had remained alive....

5. In the circumstances, the deceased''s father was dependent on the deceased Upender Raut. The Claims Tribunal was justified in making a deduction of 1/4th towards personal and living expenses.

6. As far as addition of 30% towards inflation is concerned, the case is covered by the latest Supreme Court Judgment in Santosh Devi Vs. National Insurance Company Ltd. and Others, . The contention raised on behalf of the Appellant is accordingly rejected.

7. Loss of love and affection can never be measured in terms of money. Normally a compensation of Rs. 25,000/- is awarded towards loss of love and affection when full compensation is awarded towards loss of dependency. In some cases the Supreme Court has granted a higher compensation under this head. In the circumstances, an award of Rs. 40,000/- towards loss of love and affection cannot be said to be exorbitant and excessive.

8. The Appeal is devoid of any merit; the same is accordingly dismissed.

9. Statutory amount of Rs. 25,000/- shall be refunded to the Appellant Insurance Company.

10. Pending Applications stand disposed of. No costs.