
(2012) 02 DEL CK 0035
In the Delhi High Court
Case No : MAC. App. 916 of 2011

ICICI Lombard General Insurance Co. Ltd.	APPELLANT
Vs	
Smt Fuli and Others	RESPONDENT

Date of Decision : 03-02-2012

Acts Referred:

Citation : (2012) 02 DEL CK 0035

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

Bench : Single Bench

Advocate : Suman Bagga, for the Appellant; M.K. Sinha, for R-1 to R-5, for the Respondent

Judgement

G.P. Mittal, J.—This Appeal is for reduction of compensation of Rs. 12,81,301/- awarded for the death of Murari Lal, who was aged about 29 years at the time of the accident, which took place on 09.01.2011.

2. During inquiry before the Motor Accident Claims Tribunal (the Claims Tribunal), Respondents No.1 to 5 claimed that the deceased was working as a mason (Rajmistri) and was earning Rs. 9,000/- per month. In the absence of any evidence with regard to the deceased's income, the Claims Tribunal took the minimum wages of an unskilled worker i.e. Rs. 5278/- per month; added 50% towards the increase in the minimum wages on account of inflation; deducted one-fourth towards the personal and living expenses and applied the multiplier of "17" to compute the loss of dependency as Rs. 12,11,301/-. After addition of notional sums under non-pecuniary heads, the overall compensation of Rs. 12,81,301/- was awarded.

3. It is argued by the learned counsel for the Appellant Insurance Company that there was no justification to grant 50% addition on account of increase in the minimum wages.

4. It is also urged that the award of compensation of Rs. 40,000/- towards loss of love and affection is on the higher side.

5. In *National Insurance Company Ltd. Vs. Renu Devi and Others*, , this Court held that the increase in the minimum wages is not on account of promotion of an unskilled worker or on account of advancement in his career but the same is due to increase in the price index and cost of living. It has also to be borne in mind that 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 them benefit of growth in GDP.

6. A perusal of the Notifications issued under the Minimum Wages Act would show that the minimum wages of an unskilled worker were revised from Rs. 5,278/- as on 01.02.2010 to Rs. 6,422/- on 01.04.2011. Thus, it has to be noticed that there was an increase of about 20% in the minimum wages in just six months. This was not on account of inflation but to provide a better standard of living to the lowest paid workers.

7. In *Renu Devi & Ors.*(supra) it was held as under:-

9. In a recent decision of this Court *Sh. Narinder Bishal and Anr. v. Sh. Rambir Singh and Ors.*, MAC App. 1007-08/2006, decided on 20.02.08 by Kailash Gambhir, J., it has been observed as under: -

For determining the earning of the deceased or victim of the accident, the claimants are supposed to prove the exact income of the deceased by leading some cogent and reliable documentary evidence as to the nature of his employment or trade or business or in any other activity he was involved in and then the said income can be taken into consideration for determining the quantum of compensation and if in such a case, the claimants are further able to establish the future prospects as well, then the criteria laid down in *Sarla Dixit's* case would get attracted. There can be another category of cases where the claimants are able to establish the future prospects of the deceased by quantifying the amount to be earned by the deceased in future with the help of cogent, reliable and convincing evidence and in all such cases the tribunal can take into consideration such future increase as has been established by the claimants on record. The difficulty however, would arise in all those cases where although the claimants are able to sufficiently establish on record the educational qualification of the deceased or the nature of his employment whether skilled, semi-skilled or unskilled but fail to establish by any reliable evidence to prove the exact income of the deceased. In such cases, question arises whether the Tribunal can take into consideration the minimum wages and the periodical revision of minimum wages as are fixed by the Government under the Minimum Wages Act. To examine this question, it will have to be considered whether the revision which takes place under the Minimum Wages Act can be equated with the future prospects of a deceased. As would be evident from catena of judgments of the Supreme Court, the future prospects have no correlation with the price index, inflation or denunciation of currency value. The future prospects would necessarily mean advancement in future career, earnings and progression in one's life. It could be considered by seeing, from which post a person began

his career, what avenues or prospects he has while being in a particular avocation and what targets he/she would finally achieve at the end of his career. The promotional avenues, career progression, grant of selection grades etc. are some of the broad features for considering one's future prospects in one's career. The minimum wage, in the very context of economy has a correlation with the growth and development of the nation's economy, postulating increase in the price index, reduction of purchasing power with the denunciation of currency value and consequent fixation of minimum wages giving some periodical increase so as to ensure sustenance and survival of the workman class. Keeping this in view, under no circumstance the revision of minimum wages can be treated on the same footing with the factor of future prospects.

8. In view of the judgments of this Court in (i) UPSRTC v. Munni Devi, IV (2009) ACC 879; (ii) National Insurance Company Ltd. Vs. Renu Devi and Others, ; and (iii) Narinder Bishal & Anr. v. Rambir Singh & Ors. MAC APP. 1007-08/2006 decided on 20th February, 2008, 50% of the minimum wages have to be added to offset the inflation due to indexation. 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 hence there is need to add 50% of the minimum wages to arrive at the victim's income.

9. 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.

10. In this case, the Clams Tribunal awarded a sum of Rs. 40,000/- towards loss of love and affection. Although, this Court has also awarded a sum of Rs. 25,000/- only in a number of cases towards loss of love and affection, but since the award of amount of Rs. 40,000/- is marginally on the higher side and does not make any difference on the overall compensation awarded by the Claims Tribunal, the compensation awarded by the Claims Tribunal cannot be said to be exorbitant and excessive under loss of love and affection.

11. I would not like to interfere with the impugned award. The Appeal being without any merit is dismissed. No costs.

12. Pending application stands disposed of.