

(2012) 02 DEL CK 0086

In the Delhi High Court

Case No : MAC. APP. No"s. 397 of 2011 and CM. Appl 8996 of 2011 (stay) and
MAC. App. No. 59 of 2012

Icici Lombard General Insurance Co. Ltd.

APPELLANT

Vs

Sudesh and Others
 Sudesh and Others Vs ICICI
Lombard General Insurance Co. Ltd.

RESPONDENT

Date of Decision : 09-02-2012

Acts Referred:

Citation : (2012) 02 DEL CK 0086

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

Bench : Single Bench

Advocate : Suman Bagga, for MAC. app. Nos. 397/2011 and CM. appl. 8996/2011 stay and Mr. S.N. Parashar, for MAC. app. No. 59/2012, for the Appellant; S.N. Parashar, Advocate for MAC. App. Nos. 397/2011 and CM. Appl. 8996/2011 (stay) and Ms. Suman Bagga, Advocate for the Respondent Insurance Company for MAC. App. No. 59/2012, for the Respondent

Judgement

G.P. Mittal, J.—These are two Cross-Appeals. The MAC APP No.397/2011 is for reduction of compensation of Rs. 8,25,500/- for the death of Ram Prakash who was aged 39 years at the time of the accident which took place on 18.04.2009. The Cross-Appeal MAC APP No.59/2012 is for enhancement of compensation on the ground that the deceased's actual income was not taken into consideration. For the sake of convenience, the Respondents in MAC APP No.397/2011 who are Appellants in Cross-Appeal MAC APP No.59/2012 shall be referred as Claimants.

2. During inquiry before the Tribunal, it was claimed that the deceased was working as a Plant Engineer with M/s. Trinity Tiles & Bricks Company, Satyam Vihar, Phase-II, Baprola, and earning Rs. 8000/- per month. The Claimants examined Naresh Kumar, Proprietor of M/s.Trinity Tiles & Bricks Company who produced a certificate Ex.PW1/2 to show that the deceased was getting a salary of Rs. 8000/- per month. The witness was directed to produce the documents regarding the deceased's appointment and his salary. Although the witness was to produce the same on the next date of hearing, but he did not produce any

document. The Claimants did not press for production of the record and the evidence was closed. It was under these circumstances that the Tribunal took the minimum wages of an unskilled worker, added 50% towards indexation and to provide a better standard of living to the lowest paid workers, deducted 1/4th towards loss of personal and living expenses (considering the number of dependents to be 5) applied the multiplier of 15 to compute the loss of dependency as Rs. 8,00,482/-.

3. It is urged on behalf of the Appellant that 50% increase in minimum wages could not have been given as future prospects are awarded where there is evidence of progression in career or annual increase in the salary. The employment of the deceased has also to be permanent.

4. On the other hand, it is contended on behalf of the Claimants(in Cross-Appeal MAC APP No.59/2012) that the deceased's income of Rs. 8,000/- ought to have been considered to compute the loss of dependency and some compensation should have been awarded under the head of loss of love and affection.

5. During hearing of the Appeal, the Claimants were directed to produce PW4 along with the record of the deceased's employment, but his whereabouts could not be known. Thus, the salary certificate Ex.PW1/2 was rightly disbelieved by the Tribunal.

6. There are a catena of judgments of this Court where an addition of 50% has been made in the minimum wages on the ground that the minimum wages are increased to offset inflation and to provide a better standard of living to the lowest paid employees.

7. 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.

8. Similar view was taken by this Court in Sh. Narinder Bishal and Another Vs. Sh. Rambir Singh and Others, ; UPSRTC v. Munni Devi, IV (2009) ACC 879; and Vinod Kumar Bansal v. Ranbir Singh & Ors., 2011 ACJ 1672 (Delhi).

9. 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. 3470/- as on 1.02.2007 to Rs. 6,422/- on 01.04.2011. Thus, it has to be noticed that there was an increase of more than 90% in the minimum wages in just four years. This was not on account of inflation but to provide a better standard of living to the lowest paid workers.

10. Thus, the Appellants were entitled to an addition of 50% in the income on account of indexation and increase in minimum wages to provide better standard

of living.

11. Some compensation ought to have been awarded under the head of loss of love and affection. 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 grant the compensation under this head to Rs. 25,000/-

12. The overall compensation is enhanced from Rs. 8,25,500/- to Rs. 8,50,000/-.

13. The increased compensation shall carry interest @ 7.5% per annum from the date of filing of the petition till the date of payment which shall be deposited with the Registrar General of this Court within 30 days from the date of the order. On deposit of the amount, it shall be released in favour of the First Respondent in terms of the Tribunal's order.

14. The MAC APP. No.397/2011 is dismissed.

15. The Cross-Appeal MAC APP No.59/2012 is allowed in above terms.

16. The statutory amount, if deposited by the Appellant Insurance Company shall also be returned.

17. No costs.