(2012) 03 DEL CK 0526

In the Delhi High Court

Case No : MAC App. 436 of 2011

ICICI Lombard General Insurance Co. Ltd. APPELLANT

Vs

Urmila and Others RESPONDENT

Date of Decision : 30-03-2012

Acts Referred:

Citation : (2012) 03 DEL CK 0526

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

Bench : Single Bench

Advocate : Suman Bagga, for the Appellant; Sunil Kumar Verma, for R-1 to R-4, for the Respondent

Judgement

G.P. Mittal, J.—The Appellant seeks reduction of compensation of Rs. 10,21,408/- awarded for the death of Ram Bharose who died in a motor accident which occurred on 21.04.2010. Following contentions are raised on behalf of the Appellant Insurance Company:-

(i) As per the Salary Slip Ex.PW-1/R-3, the deceased was getting a salary of Rs. 4862/-. The Claims Tribunal erred in adding 50% on account of inflation. No addition was permissible in the absence of any evidence as to the deceased''s future prospects.

(ii) As per Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, father is not to be considered as a dependent. The Claims Tribunal erred in deducting one-fourth towards the personal and living expenses instead of one-third as the dependents were just three.

2. The Appeal must succeed on both counts.

3. The deceased was employed as a helper in Bazaar Connections ,Plot No.369, Sec. 37, Udyog Vihar, Gurgaon, Haryana. Except the salary slip there was no evidence of future prospects. Thus, no addition in income could be made towards future prospects.

4. In Dhaneshwari & Another v. Tajeshwar Singh & Others MAC. APP 997/2011 decided on 19.3.2012, after noticing the Judgments of this Court in Smt. Anari Devi Vs. Shri Tilak Raj and Another, National Insurance Co. Ltd. Vs. Pooja and Others, Om Kumari & Ors. v. Shish Pal & Ors. 140 (2007) DLT 62, Narinder Bishal & Anr. v. Rambir Singh & Ors. MAC APP. 1007-08/2006, decided on 20.02.2008, New India Assurance Co. Ld. v. Vijay Singh MAC APP. 280/2008 decided on 09.05.2008; Oriental Insurance Company Limited v. Smt. Rajni Devi & Ors. MAC APP.286/2011 decided on 06.01.2012; Smt. Gulabeeya Devi v. Mehboob Ali & Ors. MAC APP.463/2011 decided on 10.01.2012 and IFFCO TOKIO Gen. Ins. Co. Ltd. v. Rooniya Devi & Ors. MAC APP.189/2011 decided on 30.01.2012 and Division Bench Judgments of this Court in Delhi Transport Corporation and Another Vs. Lalita, and Rattan Lal Mehta v. Rajinder Kapoor & Anr. II (1996) ACC 1 (DB), this Court has held that in view of Rattan Lal Mehta (supra) increase in minimum wages cannot be given on account of future inflation.

5. The deceased was working in Gurgaon, Haryana. The minimum wages of a highly skilled person in Haryana on the date of the accident were Rs. 4862/- only.

6. The Respondents (the Claimants) would be entitled to compensation on the basis of this income without any addition and one-third of deceased''s income has to be deducted towards his personal and living expenses as there was no evidence that the deceased''s father was dependent.

7. The loss of dependency comes to Rs. 6,22,335/- (4862/- x 2/3 x 12 x 16).

8. The Claims Tribunal awarded a sum of Rs. 60,000/- towards Loss of Love and Affection. As 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. Thus, I would reduce the compensation under this head to Rs. 25,000/- only.

9. The overall compensation is recomputed as under:-

Sl. No.

Compensation under various heads

Awarded by this Court

1.

Loss of Dependency

Rs. 6,22,335/-

2.

Loss of Love & Affection

Rs. 25,000/-

3.

Loss to Estate

Rs. 10,000/-

4.

Loss of Consortium

Rs. 10,000/-

5.

Funeral Expenses

Rs. 10,000/-

Total

Rs. 6,77,335/-

10. The compensation is thus reduced from Rs. 10,21,408/- to Rs. 6,77,335/-.

11. The excess amount of Rs. 3,44,073/- along with the proportionate interest @ 7.5% and the interest if any, accrued during the pendency of the Appeal shall be refunded to the Appellant Insurance Company.

12. Statutory amount deposited shall also be refunded to the Appellant Insurance Company.

13. The Appeal is allowed in above terms. Pending application also stands disposed of.