

(2019) 10 DEL CK 0408
In the Delhi High Court
Case No : MAC.APP. No. 833 Of 2019

Inderwati & Ors

APPELLANT

Vs

Parmanand Sharma & Ors (HDFC ERGO General Insurance Co Ltd)

RESPONDENT

Date of Decision : 21-10-2019

Acts Referred:

Citation : (2019) 10 DEL CK 0408

Hon'ble Judges : Najmi Waziri, J

Bench : Single Bench

Advocate : Arihant Jain, Abhay Singh Bhadoria

Final Decision : Disposed Of

Judgement

Najmi Waziri, J

CM APPL. 46118/2019 (Exemption)

1. Exemption allowed, subject to all just exceptions.

2. The application stands disposed-off.

CM APPL. 46119/2019 (for delay)

3. For the reasons mentioned in the application, it is allowed. The delay in filing the appeal is condoned.

4. The application stands disposed-off.

MAC.APP. 833/2019

5. Issue notice. The learned counsel named above accepts notice.

6. At joint request, the appeal is taken up for disposal.

7. This appeal seeks enhancement of the award of compensation dated 17.11.2018 passed by the learned MACT in MACP No. 296/18, on the ground that

compensation towards 'loss of future prospects' has not been granted, while it is payable @ 25% to the appellant in terms of dicta of Supreme Court in National Insurance Co. Ltd. v. Pranay Sethi & Ors. (2017) 16 SCC 680. The appellants' contention is valid. Therefore, they are granted 25% addition towards 'loss of future prospects'. Furthermore, the deceased was 45 years of age at the time of the motor vehicular accident i.e. he had not attained the age of 46 years. Therefore, the multiplier of 14 ought to have been taken into consideration instead of 13. The error is apparent. The impugned order is modified to the extent that the multiplier of 14 shall be applied.

8. It is further contended by the learned counsel for the appellant that the minimum wages applicable to a Matriculate was not taken into consideration despite the High School Certificate of the deceased, being on record. The said argument is valid. The minimum wages for Matriculate at the relevant time was Rs. 8,140/-. Accordingly, the same shall be made applicable.

9. There are six claimants to the claim petition. The Court would note that only Rs.40,000/-has been granted towards 'loss of consortium'. In terms of the dicta of the Supreme Court in Magma General Insurance Co. Ltd. v. Nanu Ram Alias Chuhru Ram & Ors. 2018 SCC OnLine SC 1546, each of the claimants are entitled to compensation towards 'loss of consortium' @ Rs.40,000/-. Additionally, they are each entitled to compensation towards 'loss of love and affection' @Rs.50,000/- each. It is so granted.

10. Thus, the amount payable to the claimants shall be as under:-

S.No.

Particulars

Amount

1.

Loss of future prospects [(Rs. 8,140/- (monthly income) x 12(months) x 14 (multiplier) x 125/100 (25% future prospects) x 75/100 (1/4th deduction towards personal expenses)]

Rs. 12,82,050/-

2.

Loss of love and affection [Rs. 50,000 x 6 (claimants)]

Rs. 3,00,000/-

3.

Loss of consortium [Rs. 40,000 x 6 (claimants) less Rs. 40,000/- (already granted)]

Rs. 2,00,000/-

TOTAL

Rs. 17,82,050/-

11. Let the enhanced amount of Rs.8,46,250/-, alongwith interest thereon @ 9% from the date of the filing of the petition till its realization, be deposited by the insurer, within three weeks from date of receipt of a copy of this order. Upon deposit, the said monies shall be released to the beneficiaries of the Award, in terms of the scheme of disbursement specified therein.

12. The appeal stands disposed-off in the above terms.