
(2018) 04 DEL CK 0319
In the Delhi High Court
Case No : MAC.APP. No. 94 Of 2018

K L Jadhav & Anr

APPELLANT

Vs

Abhishek Kumar & Ors (New India Assurnace Co Ltd)

RESPONDENT

Date of Decision : 05-04-2018

Acts Referred:

Citation : (2018) 04 DEL CK 0319

Hon'ble Judges : J.R. Midha, J

Bench : Single Bench

Advocate : Bhupesh Narula, Yogesh Kumar Narula, Archana Gaur

Judgement

J.R. Midha, J

1. The appellants have challenged the award of the Claims Tribunal whereby compensation of Rs.40,57,375/- has been awarded to the appellants.
2. The accident dated 2nd September, 2015 resulted in the death of Anish Kishor Jadhav. The deceased was aged 25 years at the time of the accident and was survived by his parents who filed the claim petition before the Claims tribunal. The deceased was working as Executive - Sales and Technical Support with M/s Nikon India Pvt. Ltd. at a salary of Rs.5 lakh per annum.
3. The Claims Tribunal took the income of the deceased as Rs.4,61,500/-per annum after deducting Medical Reimbursement and Income tax. The Claims Tribunal added 50% towards future prospects, deducted 50% towards personal expenses and applied the multiplier of 11 according to the age of the mother to compute the loss of dependency as Rs.38,07,375/-. The Claims Tribunal awarded Rs.1,50,000/- towards loss of love and affection, Rs.50,000/- towards loss of estate and Rs.50,000/- towards funeral expenses. The total compensation awarded is Rs.40,57,375/-.
4. Learned counsel for the appellant urged at the time of the hearing that the Claims Tribunal has applied the multiplier of 11 whereas the appropriate

multiplier according to the age of the deceased is 18. It is submitted that the multiplier ought to be taken as per the age of the deceased and not as per the age of the mother. It is further submitted that Claims Tribunal has wrongly deducted the Medical Reimbursement amount from the salary of the deceased. It is submitted that Rs.23,500/- has been wrongly deducted as Income Tax from the salary of the deceased as no Income Tax was deductible on the income of the deceased after considering the standard deductions and exemptions.

5. Learned counsel for the respondent submits that the non-pecuniary compensation be reduced according to National Insurance Company Limited v. Pranay Sethi, 2017 SCC OnLine SC 1270.

6. There is merit in the appellant's contention that the medical reimbursement amount of Rs.15,000/- should be included in the income of the deceased. The deduction of medical reimbursement of Rs.15,000/- is, therefore, set aside and the income of the deceased is taken as Rs.5 lakh per annum. The Claims Tribunal has deducted Rs.23,500/- as Income Tax on the income of Rs.5 lakh. However, the Claims Tribunal has not taken into consideration the standard deductions and the exemption of PPF, HRA and medical reimbursement amount while computing the Income Tax. This Court is of the view that the Income Tax of Rs.5068/- would be deducted from the Income of the deceased after taking into consideration the standard deductions and exemptions in respect of PPF, HRA and medical reimbursements. The income of the deceased is taken as Rs.4,94,932/- (Rs.5,00,000/- - Rs.5068/-) per annum. The addition of 50% towards future prospects and 50% towards personal expenses by the Claims Tribunal is upheld. The Claims Tribunal has applied the multiplier of 11 whereas the appropriate multiplier according to the age of the deceased is 18 in terms of Pranay Sethi (supra). The multiplier is, therefore, enhanced from 11 to 18. Taking the income of the deceased as Rs.4,94,932/- per annum, adding 50% future prospects, deducting ½ towards personal expenses and applying the multiplier of 18, the loss of dependency is computed as Rs.66,81,582/-. The non-pecuniary compensation of Rs.1,50,000/- towards loss of love and affection is set aside and compensation of Rs.50,000/- towards loss of estate and Rs.50,000/- towards funeral expenses are reduced to Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses respectively. The appellant is entitled to total compensation of Rs.67,11,582/-.

7. The appeal is allowed and the compensation amount of Rs.40,57,375/- awarded by the Claims Tribunal is enhanced to Rs.67,11,582/- along with interest @ 9% per annum.

8. The appellant is directed to deposit the enhanced compensation amount with the Registrar General of this Court within three weeks.

9. List for disbursement on 04th May, 2018.

10. The appellants shall produce the copy of the passbooks along with the necessary endorsement in terms of the order dated 23rd January, 2018 on the

next date of hearing.

11. Copy of this judgment be given dasti to learned counsels for the parties under signature of Court Master.