

(2021) 02 DEL CK 0006

In the Delhi High Court

Case No : MAC. Appeal No. 187 Of 2020

Liberty General Insurance Ltd.

APPELLANT

Vs

Veena Devi & Ors

RESPONDENT

Date of Decision : 01-02-2021

Acts Referred:

Citation : (2021) 02 DEL CK 0006

Hon'ble Judges : Sanjeev Sachdeva, J

Bench : Single Bench

Advocate : Amitej Kumar Nagar, Somnath Parashar

Final Decision : Disposed Of

Judgement

Sanjeev Sachdeva, J

CM APPL.3435/2021(early hearing filed by R-1&2)

1. The hearing was conducted through video conferencing.
2. Issue notice. Notice is accepted by Mr. Amitej Kumar Nagar, learned counsel appearing for appellant.
3. For the reasons stated in the application, the application is allowed.
4. The appeal is taken up for hearing today.
5. The next date of 25.03.2021 is cancelled.

MAC.APP. 187/2020

1. Issue notice. Notice is accepted by learned counsel appearing for respondents no 1 and 2.
2. Since no relief is claimed against respondents no. 3 and 4, service of respondents no. 3 and 4 is dispensed with.
3. Appellant has impugned judgment dated 20.12.2019, whereby the Claim

Petition filed by respondents no. 1 and 2 has been allowed and a compensation awarded.

4. The case of the claimants i.e. the parents of the deceased is that, the deceased was standing on the side of the road and was talking with his friends when the offending Maruti Swift Dezire car bearing registration No. HR-06AG-7198 being driven by respondent no.3 came at a very high speed and hit the deceased and his two friends with great force. He fell on the road and sustained injuries. The son of the respondents no.1 & 2 died on the spot.

5. Learned counsel appearing for the appellant/Insurance Company contends that the only issue arising in the present case is that the Tribunal has erred in awarding a sum of Rs.50,000/- to each of the respondents under the head "Loss of Love and Affection".

6. Learned counsel for the appellant relies on the decision of the Supreme Court dated 30th June, 2020 in United India Insurance Company Vs.

Satinder Kaur @ Satwinder Kaur, (Civil Appeal No.2705/2020). Learned counsel further submits that the Tribunal has awarded a sum of

Rs.1,00,000/- in total under the said head.

7. Learned counsel for the appellant submits that the awarded amount has already been attached by the Tribunal and thus deposited with the Tribunal.

8. Learned counsel appearing for respondents no. 1 and 2 concedes that in terms of the said judgment in United India Insurance Company Vs.

Satinder Kaur @ Satwinder Kaur (supra), no amount is liable to be awarded under the said head. He does not dispute the appeal to the said extent.

9. The Supreme Court in United India Insurance Company Vs. Satinder Kaur @ Satwinder Kaur (Supra) relying upon Magma General Insurance Co.

Ltd versus Nanu Ram & Ors (2018) 18 SCC 130 has held that consortium includes spousal consortium, parental consortium, as well as filial

consortium. Loss of love and affection is comprehended in loss of consortium. The Supreme Court directed that the Tribunals and High Courts to

award compensation for loss of consortium, which is a legitimate conventional head and held that there was no justification to award compensation

towards loss of love and affection as a separate head.

10. In the present case, the Tribunal has awarded separately under the head "loss of consortium" and "loss of love and affection", which

could not have been done.

11. In view of the above, the appeal is allowed. The Award of compensation is modified to the said extent and the amount of Rs. 1,00,000/- awarded

under the head "Loss of Love and Affection" is deleted from the awarded amount.

12. Since, there is no challenge to the remaining Award, the award to the said extent is upheld.

13. The appeal is disposed of with a direction to the Tribunal to disburse the awarded amount, (less Rs. 1,00,000/- awarded under the head of loss of love and affection), in terms of the scheme of disbursal as provided in the Award.

14. The additional amount, if any, attached from the Insurance Company shall be refunded to the Insurance company by the Tribunal.

15. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through email by the Court Master.