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(2009) 11 DEL CK 0351

In the Delhi High Court

Case No : MAC. APP. No. 473 of 2009

National Insurance Co. Ltd. APPELLANT

Vs

Ahrar Ahmed and Others RESPONDENT

Date of Decision : 25-11-2009

Acts Referred:

Citation : (2009) 11 DEL CK 0351

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

Bench : Single Bench

Advocate : Rajdipa Behura and C.S. Chauhan, for the Appellant; N.K. Jha, for R-1, for the Respondent

Final Decision : Allowed

Judgement

J.R. Midha, J.—The appellant has challenged the award of the learned Tribunal whereby compensation of Rs. 19,67,530/- has been awarded to claimants/ respondents No. 1(i) to (v).

2. The accident dated 29th September, 2006 resulted in the death of Ijhar Ahmed. The deceased was survived by his widow, two sons and a daughter who filed the claim petition before the learned Tribunal.

3. The deceased was aged 54 years at the time of the accident and was in permanent employment with MTNL earning Rs. 14,753/- per month. The learned Tribunal added 50% towards future prospects, deducted 1/3rd towards personal expenses and applied the multiplier of 11 to compute the loss of dependency at Rs. 19,47,528/-. Rs. 10,000/- has been awarded towards loss of consortium and Rs. 10,000/- towards funeral expenses. The total compensation awarded is Rs. 19,67,528/-.

4. The only ground urged by learned Counsel for the appellant is that the future prospects should not have been taken into consideration in view of the recent judgment of the Hon''ble Supreme Court in the case of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, as the deceased was 54

years old.

5. The claimants are present along with their counsel. The learned Counsel for the claimants/respondents do not dispute the ground raised by learned Counsel for the appellant. However, the learned Counsel for the claimants submit that the deduction towards the personal expenses should be reduced from 1/3rd to 1/4th and the compensation be awarded for loss of love and affection and loss of estate in terms of the judgment of the Hon''ble Supreme Court in the case of Sarla Verma (supra).

6. Following the recent judgment of the Hon''ble Supreme Court in the case of Sarla Verma (supra), the income of the deceased is taken to be Rs. 14,753/-, 1/4th is deducted towards personal expenses of the deceased, multiplier of 11 is applied, Rs. 10,000/- is added towards loss of consortium, Rs. 10,000/- towards loss of love and affection, Rs. 10,000/- towards loss of estate and Rs. 10,000/- towards funeral expenses. The total compensation is computed to be Rs. 15,00,547/-.

7. The appeal is allowed and the award amount is reduced from Rs. 19,67,528/- to Rs. 15,00,547/- along with interest @7% per annum from the date of filing of the petition till realization.

8. The appellant has deposited Rs. 17,95,287/- with UCO Bank in terms of the order dated 24th September, 2009. The aforesaid amount includes the principal amount of Rs. 15,00,547/- and interest thereon up to the date of the deposit.

9. Claimants/respondents No. 1(i) and 1(ii) are present in the Court and they have been examined with respect to their financial status and financial needs.

10. UCO Bank is directed to release Rs. 45,287/- to respondent No. 1(i) - Ahrar Ahmed, Rs. 50,000/- to respondent No. 1(v) - Ishrath Jahan and Rs. 1,00,000/- to respondent No. 1(ii) - Shahjahan Bano.

11. The remaining amount of Rs. 16,00,000/- be kept in four fixed deposits as per the details hereunder:

(i) Fixed deposit for Rs. 10,00,000/- in the name of Shahjahan Bano for a period of 10 years.

(ii) Fixed deposit for Rs. 2,00,000/- in the name of Ahrar Ahmed for a period of 5 years.

(iii) Fixed deposit for Rs. 2,00,000/- in the name of Azar Ahmed for a period of 5 years.

(iv) Fixed deposit for Rs. 2,00,000/- in the name of Ishrath Jahan for a period of 5 years.

12. The monthly interest in respect of three fixed deposits in the name of Shahjahan Bano, Ahrar Ahmed and Azar Ahmed be released to Shahjahan Bano by transferring the same to her Saving Bank Account whereas the interest on

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fixed deposit in the name of Ishrath Jahan be released to her by transferring the same to her Saving Bank Account.

13. The interest on the aforesaid fixed deposits shall be paid monthly by automatic credit of interest in the Savings Account of respondent Nos. 1(ii) and 1(v).

14. Withdrawal from the aforesaid account shall be permitted to respondent Nos. 1(ii) and 1(v) after due verification and the Bank shall issue photo Identity Card to respondent Nos. 1(ii) and 1(v) to facilitate identity.

15. No cheque book be issued to respondent Nos. 1(ii) and 1(v) without the permission of this Court.

16. The original Fixed Deposit Receipts shall be retained by the Bank in the safe custody. However, the original Pass Book shall be given to respondent Nos. 1(ii) and 1(v) along with the photocopy of the FDRs.

17. The original Fixed Deposit Receipts shall be handed over to respondent Nos. 1(ii) and 1(v) at the end of the fixed deposits period.

18. No loan, advance or withdrawal shall be allowed on the said fixed deposit receipt without the permission of this Court.

19. Half yearly statement of account be filed by the Bank in this Court.

20. On the request of the claimants/respondents, the Bank shall transfer the Savings Account to any other branch of UCO Bank according to their convenience.

21. The claimants/respondents shall furnish all the relevant documents for opening of the Saving Bank Account and Fixed Deposit Account to Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi.

22. Since the appellant has deposited the entire award amount along with interest, the statutory amount of Rs. 25,000/- be refunded back to the appellants through counsel within four weeks.

23. Copy of the order be given dasti to counsel for both the parties under the signatures of the Court Master.

24. Copy of this order be also sent to Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400) through the UCO Bank, High Court Branch under the signature of Court Master.

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