

(2011) 12 DEL CK 0437
In the Delhi High Court
Case No : MAC App. 566 of 2004

National Insurance Company Ltd.

APPELLANT

Vs

Vishalakshy and Others

RESPONDENT

Date of Decision : 14-12-2011

Acts Referred:

Citation : (2011) 12 DEL CK 0437

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

Bench : Single Bench

Advocate : Shantha Devi Raman, for the Appellant; Ashok Popli, for R-1 and Mr. Hem C. Vashisht, for R-3, for the Respondent

Final Decision : Allowed

Judgement

G. P. Mittal, J.—The Appellant National Insurance Company Ltd. impugns the award dated 21.09.2004 whereby a compensation of Rs.6,00,000/- was awarded by the Motor Accident Claims Tribunal (the Tribunal) for the death of a young boy Master V. Mani, who was aged 17 years and was a student of 12th standard on the date of accident, which took place on 22.09.1992.

2. The contentions raised on Appellant's behalf are:

(i) The deceased's monthly income was wrongly taken as Rs.3,000/- . One half of the income ought to have been deducted towards personal expenses as against 1/3rd taken by the Tribunal.

(ii) The minimum wages of a matriculate on the date of the accident were Rs.1,273/- . Even if an increase of 50% is given towards future prospects, the monthly income would have been Rs.1,900/- per month. The deceased was still a minor studying in 12th standard and the Tribunal erred in taking the deceased's monthly income to be Rs.3,000/- .

3. In Manju Devi v. Musafir Paswan VI (2005) SLT 257 the Supreme Court took the notional income of Rs.15,000/- as per second schedule of the Motor Vehicles

Act and granted a compensation of Rs.2,25,000/- in respect of death of a boy aged 13 years.

4. In the case of Sham Narayan v. Kitty Tours & Travels 2006 ACJ 320 relating to the death of a child aged 5 years this Court relying on Manju Devi (supra) took the notional income of Rs.15,000/- and enhanced the compensation from Rs.1,00,000/- to Rs.2,75,000/- .

5. In the case of R.K. Malik v. Kiran Pal III (2006) ACC 261, this Court granted a compensation of Rs.75,000/- towards non-pecuniary damages in addition to the compensation of Rs.2,25,000/- on account of loss of dependency. This case relates to the death of 22 children, who lost their lives on account of the school bus falling in the Yamuna as a result of rash and negligent driving of the bus driver. The claimants in R.K. Malik (supra) took the matter to the Supreme Court. The Hon'ble Supreme Court in R.K. Malik and Another Vs. Kiran Pal and Others, enhanced the compensation by awarding a further compensation of Rs.75,000/- towards future prospects. All these judgment were relied on by this Court in National Insurance Co. Ltd. Vs. Farzana and Others, and it was held that in case of the death of a minor the Claimants would be entitled to total compensation of Rs.3,75,000/- (i.e. Rs.2,25,000/- towards loss of dependency + Rs.75,000/- towards loss of love and affection and Rs.75,000/- towards future prospects). Even if the minimum wages of a matriculate on the date of the accident with future prospects are considered the compensation would come to almost this amount.

6. The Tribunal erred in assuming the deceased's income as Rs.3,000/- per month. The compensation awarded is reduced from Rs.6,00,000/- to Rs.3,75,000/- along with interest @ 7.5% per annum from the date of filing of the petition till the date of deposit. The award amount was ordered to be deposited by the order of this Court dated 03.01.2005 and an amount of Rs.3,00,000/- was ordered to be released to Respondent No.1. The balance amount in terms of this order shall be released to Respondent No.1.

7. The excess amount deposited shall be refunded to the Appellant National Insurance Company Ltd.

8. The appeal is allowed in above terms.