

(2012) 03 DEL CK 0219
In the Delhi High Court
Case No : MAC App. No. 355 of 2010

New India Assurance Co. Ltd.

APPELLANT

Vs

Archana Shukla and Others

RESPONDENT

Date of Decision : 13-03-2012

Acts Referred:

Citation : (2012) 03 DEL CK 0219

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

Bench : Single Bench

Advocate : Kanwal Choudhary, for the Appellant; Shalineer, Advocate for respondents No. 1 to 5, for the Respondent

Final Decision : Allowed

Judgement

G.P. Mittal, J.—The Appellant seeks reduction of compensation of Rs. 50,63,504/- awarded for the death of Shri Brijender Shekhar Shukla who died in an accident which occurred on 15th March, 2003.

2. The contentions raised on behalf of the Appellant are as under:-

(i) That the deceased was aged 38 years. The Tribunal ought to have adopted the multiplier of 15 instead of 16 as taken by the Tribunal.

(ii) The deduction towards income tax was not made while computing the loss of the dependency.

3. The Appeal is bound to succeed on both the grounds.

4. At the same time, it has to be noticed that the deceased's gross salary was Rs. 34,205/- on the date of the accident. Even if the amount paid towards entertainment allowances, washing allowance, petrol reimbursement, conveyance maintenance, telephone bills and canteen allowances is deducted, the deceased's salary would be Rs. 30,610/- per month or Rs. 3,67,320/- annually. There was a liability of income tax amounting to Rs. 84,100/- thereon. On adding 50% towards future prospects (Sarla Verma (Smt.) & Ors. v. Delhi

Transport Corporation & Anr., (2009) 6 SCC 12) The loss of dependency would come to Rs. 47,79,337/- (Rs. 30,610/- X 12- Rs. 84,100/- (income tax) + 50% X 3 /4X 15). On adding conventional sum of Rs. 25,000/- towards loss of Love and Affection, Rs. 10,000/- each, towards Loss of Consortium, Loss of Estate and Funeral Expenses, the overall compensation comes to Rs. 48,34,337/-.

5. The overall compensation is reduced to Rs. 48,34,337/- from Rs. 50,63,504/- which shall carry interest @ 7% per annum, as granted by the Claims Tribunal.

6. By an order dated 16th July, 2010, 75% of the award amount was directed to be deposited by the Appellant/Insurance Company. Rest of the amount along with interest shall be deposited with the Registrar General of this Court within 30 days. The amount payable shall be apportioned and held in Fixed Deposit in the matter as directed by the Claims Tribunal.

7. The appeal is allowed in the above terms.

8. Statutory amount shall be refunded to the Appellant/Insurance Company through its counsel.