(2018) 03 DEL CK 0203

In the Delhi High Court

Case No : MAC.APP No. 954 Of 2012

New India Assurance Co. Ltd — APPELLANT

Vs

Bibi Mashroom & Ors — RESPONDENT

Date of Decision : 01-03-2018

Acts Referred:
Motor Vehicles Act, 1988 — Section 163A

Citation : (2018) 03 DEL CK 0203

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

Bench : Single Bench

Advocate : Shoumik Mazumdar, Ankit, Ishwender

Judgement

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.4,92,000/- has been awarded to respondents no.1 to 4.

2. On 14th March, 2006, Mohd. Tasleemuddin was travelling in Vehicle No.HR-47-3873 as a helper and the said vehicle met with an accident near Anand Vihar Bus Stand which resulted in the death of Mohd. Tasleemuddin. The deceased was survived by his widow, parents and minor daughter who filed an application for compensation before the Claims Tribunal.

3. The deceased was aged 22 years at the time of the accident and was earning Rs.3,300/- per month. The Claims Tribunal deducted 1/3rd towards personal expenses of the deceased and applied multiplier of 18 to compute the loss of dependency as Rs.4,80,006/-. The Claims Tribunal awarded Rs.5,000/- towards love and affection, Rs.5,000/- towards loss of estate and Rs.2,000/- towards funeral expenses. The total compensation awarded is Rs.4,92,000/-.

4. Learned counsel for the appellant urged at the time of the hearing that the liability of the appellant under the policy is limited to the liability under the Employees' Compensation Act and therefore, the amount is liable to be reduced to the extent of the liability under the Employees' Compensation Act. The second ground urged is that the driver of the vehicle was not holding a valid driving

licence and therefore, the appellant be granted recovery rights.

5. With respect to the first contention of the appellant, this Court has computed the liability of the appellant under the Employees' Compensation Act. Under the Employees' Compensation Act, the claimants would have been entitled to compensation of Rs.3,65,260.50 by taking the factor of 221.37 and multiplying with 50% of the wages of the deceased i.e. Rs.1,650/-. The claimants would also be entitled to interest @ 12% per annum and the liability as on today under the Employees' Compensation Act would be more than Rs.8,50,000/- whereas the appellant has deposited compensation of Rs.7,75,170/- under the award in question. Since the liability of the appellant under the Employees' Compensation Act is more than award passed by the Claims Tribunal under Section 163A of the Motor Vehicles Act, no interference is warranted in the impugned award.

6. With respect to the second contention of the appellant with respect to the driving licence of the driver, learned counsel for the appellant submits that one licence of the driver of the offending vehicle was found to be genuine. This Court is of the view that no case for grant of recovery rights is made out since the licence of the driver has been found to be genuine.

7. The appeal is dismissed. The appellant has deposited Rs.7,75,170/-with UCO Bank, Delhi High Court Branch (Rs.4,30,620/- in terms of order dated 29th August, 2012 and a further sum of Rs.3,44,550/- in terms of the order dated 28th February, 2017). As such, a total sum of Rs.7,75,170/- is available with UCO Bank, Delhi High Court Branch.

8. Respondents no.1 to 4 have produced passbooks of their savings bank accounts. The particulars of the savings bank accounts are as under:

(i) Bibi Mashroon @ Bibi Masrun (Respondent No.1) - A/c No.3122522337 with Central Bank of India, Rupauli Branch, IFSC Code: CBIN0280073.

(ii) Sahiruddin @ Sahrudin (Respondent No.2) - A/c No.3122522122 with Central Bank of India, Rupauli Branch, IFSC Code: CBIN0280073.

(iii) Bibi Shakila @ Bibi Sakila (Respondent No.3) - A/c No.3122521672 with Central Bank of India, Rupauli Branch, IFSC Code: CBIN0280073.

(iv) Bibi Angoori @ Anguri (Respondent No.4) - A/c No.35511599344 with State Bank of India, Sondeep Branch, IFSC Code: SBIN0007094.

9. The order dated 7th July, 2017 is modified and the fresh disbursement order is passed today.

10. UCO Bank, Delhi High Court is directed to keep Rs.7 lakh in fixed deposits in the following manner: -

(i) Rs.3 lakh be kept in 30 FDRs of Rs.10,000/- each in the name of respondent no.1, Bibi Mashroon @ Bibi Masrun for the period 1 months to 30 months with cumulative interest.

(ii) Rs.1,00,000/- be kept in 20 FDRs of Rs.5,000/- each in the name of respondent No.2, Sahiruddin @ Sahrudin, for the period 1 month to 20 months with cumulative interest.

(iii) Rs.1,50,000/- be kept in 30 FDRs of Rs.5,000/- each in the name of respondent No.3, Bibi Shakila @ Bibi Sakila, for the period 1 month to 30 months with cumulative interest.

(iv) Rs.1,50,000/- be kept in the name of respondent No.4, Bibi Angoori @ Anguri, till she attains majority with cumulative interest. Upon attaining majority, the bank shall release the interest accrued to respondent No.4 and keep the principal amount of Rs.1,50,000/- in 15 FDRs of Rs.10,000/- each in the name of respondent No.4 for the period 1 month to 15 months with cumulative interest.

11. The balance amount, after keeping Rs.7 lakh in FDRs, be released to respondents No.1 to 3 in equal proportion by transferring the same to their savings bank accounts mentioned in para 8 above.

12. The maturity amount of the FDRs along with interest shall be credited in the aforesaid savings bank accounts of respective respondents.

13. All the original FDRs shall be retained by the concerned bank. However, the statement containing FDR number, FDR amount, date of maturity and the maturity amount be furnished to respondents.

14. No loan or advance or pre-mature discharge shall be permitted without the permission of this Court.

15. The Central Bank of India, Rupauli Branch and State Bank of India, Sondeep Branch are directed not to issue any cheque book or debit card to respondents no.1 to 4 and if the same have already been issued, the bank is directed to cancel the same and make an endorsement on their passbooks to this effect. The respondents no.1 to 4 shall produce the copy of this order to the concerned bank, whereupon the bank shall make an endorsement on the passbook of respondents no.1 to 4 that no cheque book and/or debit card shall be issued to respondents no.1 to 4 without the permission of this Court. However, the concerned bank shall permit respondents no.1 to 4 to withdraw money from their savings bank account by means of a withdrawal form. The respondents no.1 to 4 shall produce the original passbook of their individual savings bank account with the necessary endorsement on the next date of hearing.

16. UCO Bank, Delhi High Court Branch shall transfer the amount after checking the endorsement in terms of para 15 above. Learned counsel for respondents no.1 to 4 shall send the copy of the passbooks of respondents No.1 to 4 with the endorsement to UCO Bank, Delhi High Court Branch.

17. Respondents are at liberty to approach this Court for pre-mature discharge of FDRs in case of any financial exigency.

18. List for reporting compliance on 1st May, 2018.

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

