
(2009) 03 DEL CK 0221

In the Delhi High Court

Case No : M.A.C. Appeal No. 157 of 2009

New India Assurance Co. Ltd.

APPELLANT

Vs

Geeta Devi and Others

RESPONDENT

Date of Decision : 31-03-2009

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2011) ACJ 277

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

Bench : Single Bench

Advocate : V.P. Chaudhary, for Amicus curiae, D.D. Singh and Navdeep Singh, for the Appellant; Surinder Nagpal and Sameer Nandwani, for the Respondent

Judgement

J.R. Midha, J.—The learned Counsel for Respondent Nos. 1 to 6 is present in court. Respondent No. 1 is also present in person.

2. Learned amicus curiae is also present in court. He has examined the documents furnished by learned Counsel for Respondent Nos. 1 to 6 to him. Learned Counsel for Respondent Nos. 1 to 6 is directed to place the complete set of documents before this Court and furnish the copy of the same to learned Counsel for the Appellant.

3. Learned amicus curiae has computed the compensation payable in the present case. Vinay Malik, Regional Manager of New India Assurance Co. Ltd. is also present in court along with his counsel.

4. The computation of compensation suggested by the learned amicus curiae is as under:

The accident dated 9.5.2006 resulted in the injuries to Ganesh Dass. Ganesh Dass expired on 27.10.2007. The deceased was aged 34 years at the time of the accident and is survived by his widow aged 29 years, three minor sons aged 3, 7 and 14 years and two minor daughters aged 5 and 11 years. The deceased used to pull the rickshaw and was also working as chowkidar in the night. Since there

is no documentary proof of his income, the minimum wages of Rs. 3,400 for unskilled worker for the year 2006-07 be taken. Considering the increase in minimum wages due to price index and inflation rate, the average of minimum wages of Rs. 3,400 and its double be taken which comes to Rs. 5,100. Since the deceased left behind six legal representatives, 20 per cent of the amount be deducted for his personal expenses and the multiplier of 17 be applied according to the Second Schedule to the Motor Vehicles Act. The total loss of dependency comes to Rs. 8,32,320. Rs. 30,000 be awarded for loss of consortium to Respondent No. 1 and Rs. 10,000 to each of the Respondents for loss of love and affection and company of the deceased and Rs. 5,000 towards funeral expenses. Since the deceased suffered serious injuries and underwent treatment for a period of almost 11/2 years, the legal representatives are entitled to compensation of Rs. 20,000 for pain and suffering. Since there is no proof of medical expenses, Rs. 3,000 be awarded towards the medical expenses of the deceased. The total compensation computed on this basis comes to Rs. 9,40,000 on which the claimants are entitled to interest at the rate of 6 per cent per annum.

5. I have given my thoughtful consideration to the opinion of the learned amicus curiae and I agree that the computation is just, fair and reasonable. The Appellant also agrees with the same. The Appellant has no objection to fair computation of compensation as suggested by the learned amicus curiae. However, the Appellant has doubt whether the death of the deceased occurred due to the injuries suffered in the accident and subject to the satisfaction of this aspect, the Appellant accepts the computation of compensation suggested by the learned amicus curiae treating the petition u/s 166 of the Motor Vehicles Act.

6. To prove the above issue both the parties agree that evidence may be recorded by this Court.

7. In the interest of justice, the case be listed for recording of evidence on the issue as to whether Ganesh Dass died due to the injuries suffered by him in the accident dated 9.5.2006.

8. The case be listed before this Court on 14.4.2009 at 2.30 p.m.

9. Respondent Nos. 1 to 6 are directed to file documents, list of witnesses and application for summoning the witnesses within one week. The summon for the witnesses be issued by ordinary process as well as be given dasti to learned Counsel for Respondent Nos. 1 to 6.

10. This order is made with the consent of the parties. I place on record my appreciation for Vinay Malik, Regional Manager of New India Assurance Co. Ltd., New Delhi who has shown grace to settle this case without raising any technical objection.

11. The presence of Vinay Malik, Regional Manager of New India Assurance Co. Ltd., New Delhi is dispensed with on the next date of hearing.

12. Copy of this order be given dasti to learned Counsel for both the parties under signatures of the Court Master.