

(2011) 07 DEL CK 0145

In the Delhi High Court

Case No : MAC Appeal No. 205 of 2011 and C.M. No. 4817 of 2011

New India Assurance Co. Ltd.

APPELLANT

Vs

Kavita and Others

RESPONDENT

Date of Decision : 13-07-2011

Acts Referred:

Citation : (2011) 07 DEL CK 0145

Hon'ble Judges : Indermeet Kaur, J

Bench : Single Bench

Advocate : Neerja Sachdeva, for the Appellant;

Final Decision : Dismissed

Judgement

Indermeet Kaur, J.—The award impugned before this Court is the award dated 22.12.2010 whereby the compensation in the sum of Rs. 9,30,330/- had been awarded to the claimants.

2. On 04.05.2006, Mr. Satish Kumar suffered an accident pursuant to a head on collision of his two wheeler scooter with the offending vehicle; the deceased succumbed to his injuries. Oral and documentary evidence was led. The aforementioned amount was accordingly awarded in favour of the claimants.

3. There is a twofold argument urged before this Court. It is contended that the minimum wages of the deceased had been taken into account and in this regard the Tribunal had taken into consideration the price index and rise on inflation which is incorrect and opposed to the ratio of judgment of the Supreme Court reported in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, . The second argument is that under the category of "love and affection" only a token amount could have been awarded; the Tribunal had erroneously awarded a sum of Rs. 1 lac.

4. It is not in dispute and as has been held by the catena of judgments reported in 2008 ACJ 2182 (Del) Kanwar Devi v. Bansal Roadways, and 2009 ACJ 1921

(Del) National Insurance Co. Ltd. v. Renu Devi judicial notice can be taken of the fact that price rise over period of time and cost of inflation has to be kept in mind even while considering the case of those claimants where the deceased was under the cover of minimum wages; this matter has rested with the aforementioned judgments and the Tribunal had rightly considered the price rise index and cost of inflation while computing and calculating the amount of compensation awarded to the claimants.

5. The amount of Rs. 1 lac awarded under the head of loss of love and affection also does not suffer from any infirmity and this is in view of law laid in the case of New India Assurance Company Ltd. v. Bali Ram Bansal and Ors. in MAC APPEAL No. 257/2010 decided on 26.04.2010. In this case, ground of Rs. 1,50,000/- under the head of love and affection had been upheld by a Bench of this Court. The Court had inter-alia noted as follows:

However, while granting compensation for loss of life, the courts have been granting token amount under different heads like loss of consortium, loss of estate and loss of love and affection apart from loss of dependency. Such amounts are granted by the Tribunals at their own discretion considering several aspects connected with the family and death of the person. No doubt each presiding officer of the Tribunal and each judge of the High Court and/or the Supreme Court shall have his own concepts and standards and would be considering amounts on such heads as per their own concepts. While considering an appeal, substituting discretionary relief granted by the Tribunal by another amount on its own estimations of loss of love and affection would not be proper. The Tribunal is a court where evidence of the dependents is recorded and has firsthand experience of the kind of love and affection the dependents felt deprived of. Thus, the Tribunal is the best judge of the amount of compensation to be awarded under such heads.

The claimants are the widow and minor children of the deceased; deceased was 31 years of age on the date of his death. There is no ground to interfere in the award of compensation for the deprivation of "love and affection".

Appeal is dismissed.