
(2012) 08 DEL CK 0061
In the Delhi High Court
Case No : MAC. APP. 401 of 2010

New India Assurance Co. Ltd.

APPELLANT

Vs

Parkasho Devi and Ors

RESPONDENT

Date of Decision : 01-08-2012

Acts Referred:

Citation : (2012) 08 DEL CK 0061

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

Bench : Single Bench

Advocate : Geetanjali Chaudhary, for the Appellant; Ashok Popli, Advocate for the Respondents No. 1 and 2 (Claimants), for the Respondent

Judgement

G.P. Mittal, J.—The Appeal is for reduction of compensation of Rs. 22,00,552/- awarded by the Motor Accident Claims Tribunal(the Claims Tribunal) for the death of Manoj Kumar who died in a motor vehicle accident which occurred on 20.05.2006. The facts are not very much in dispute.

2. On account of implementation of 6th Pay Commission, the salaries of all the Government employees were revised retrospectively w.e.f. 01.01.2006. The salary of the deceased was revised to Rs. 26,858/- including transport allowance of Rs. 800/- per month. This allowance of Rs. 800/- was personal to the deceased and was incidental to his employment. This is to be deducted while computing the loss of dependency.

3. It is urged by the learned counsel for the Appellant that deduction towards Income Tax was not made by the Claims Tribunal. Reliance is placed on Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, . It is well settled that the Income Tax has to be deducted for awarding loss of dependency. The loss of dependency thus comes to Rs. 18,06,948/-(26,858/- - 800/- =26058 x 12 - 45,000/- (Income Tax) = Rs. 2,67,696/- + 50% / 1/2 x 9).

4. I would further award a sum of Rs. 25,000/- towards loss of love and affection and Rs. 10,000/- each towards loss to estate and funeral expenses. The overall

compensation thus comes to Rs. 18,51,948/-.

5. The excess amount of Rs. 3,48,604/- along with proportionate interest and the interest accrued, if any, during the pendency of the Appeal shall be refunded to the Appellant Insurance Company.

6. The compensation held payable to the Claimants shall be released in terms of the orders passed by the Claims Tribunal.

7. Statutory amount of Rs. 25,000/- shall be refunded to the Appellant Insurance Company.

8. Pending Applications stand disposed of. No costs.