
(1989) 07 DEL CK 0005
In the Delhi High Court
Case No : FAO. No. 119 of 1989

New India Assurance Co. Ltd.

APPELLANT

Vs

Pushpa and Others

RESPONDENT

Date of Decision : 19-07-1989

Acts Referred:

Citation : (1990) ACJ 1076

Hon'ble Judges : S.B. Wad, J

Bench : Single Bench

Advocate : S.M. Suri, for the Appellant; Rajiv Behl, for the Respondent

Judgement

S.B. Wad, J.—This appeal is filed by the New India Assurance Co. Ltd. against the award of Mr. V.B. Gupta, Judge, Motor Accidents Claims Tribunal.

2. In an accident caused by mini bus No. DEP 5403 to the motor cycle No. DIT 7018 on 21.2.1984, one Narinder Kumar Varma died. The claim petition was filed by his widow, minor son and mother. The deceased was 29 years old at the time of the accident. He was holding post-graduate diploma in mechanical engineering and was working in a private firm where he was getting Rs. 1,300/- per month as salary. The claimants had claimed compensation of Rs. 5,00,000/-.

3. The Tribunal did not proceed in a normal way to work out the total amount of compensation payable and the distribution of it amongst the three claimants. The Tribunal referred to an observation of the Supreme Court in Bishan Devi and Another Vs. Sirbaksh Singh and Others, , to the effect that "in most cases it is seen that a lump sum payment is not to the advantage of the dependants as large part of it is frittered away during litigation and by payment to persons assisting in the litigation..." The learned Judge of the Tribunal misunderstood the said observation to mean that the Tribunal should make arrangements for monthly payments to the claimants. The Tribunal directed that the widow Pushpa should get Rs. 600/- per month considering the fact that she was already employed in a bank and was getting a salary of Rs. 1,150/- per month. The

Tribunal then directed that Dushyant Varma should get Rs. 200/- per month and the mother Prem Lata should get Rs. 200/- per month. This monthly payment was conditional. In regard to Pushpa the amount was payable till her death or her remarriage, whichever was earlier. Payment to Dushyant Varma was to be made till he attained the age of 25 years or till his marriage, whichever is earlier. Payment to mother Prem Lata was to be made till her death.

4. The approach of the Tribunal is wholly contrary to law and principles of compensation laid down by the superior courts in India. Although it is true that the lump sum cash amounts payable in compensation cases are frittered away or likely to be frittered away in some cases, the superior courts have followed a different course of action for the proper protection of the interests of the claimants. Usually a reasonable sum is directed to be paid in cash and the balance to be deposited in a fixed deposit, maturing at the appropriate time.

5. Another error in the approach of the Tribunal was that the total amount of compensation, which is usually fixed on the basis of the earnings of the deceased and the period of longevity has not been worked out by the Tribunal, thus creating an element of uncertainty. The monthly payment is also made depending on vague and uncertain events, such as marriage of the widow or the marriage of the son. The insurance company which is primarily liable to pay the compensation would be at a loss to know as to how much was the compensation payable since it had been made depending on the uncertain events such as marriage or death. The approach of the learned Tribunal is erroneous and the award/judgment is, therefore, set aside.

6. The deceased was 29 years old at the time of his death. It was reasonable to expect that he would have lived upto the age of 60 years. Therefore, the appropriate multiplier would be 31. The deceased was earning Rs. 1,300/- per month as his salary. Assuming that he was spending a sum of Rs. 300/- per month on his personal expenses, the family dependency comes to Rs. 1,000/- per month. Thus the claimants would be entitled to Rs. 3,72,000/- towards compensation. They would also be entitled to simple interest at the rate of 6 per cent per annum from the date of application till the date of payment. If the insurance company has already made some payment, they would be entitled to the credit for the same amount and proportionate interest.

The amount of compensation is divided as follows:

(i) Pushpa (widow): Rs. 1,00,000/-. (Out of the said amount of Rs. 1,00,000/-, Rs. 50,000/- to be paid in cash and the balance Rs. 50,000/- to be deposited in a fixed deposit in her name for a period of five years).

(ii) Dushyant Varma (minor son): Rs. 1,72,000/-. (The entire amount shall be deposited in a fixed deposit in a nationalised bank, initially for a period of five years, to be renewed thereafter till he attains the age of majority).

(iii) Prem Lata (mother): Rs. 1,00,000/-. (Out of the said amount of Rs.

1,00,000/-, Rs. 50,000/- to be paid in cash and the balance Rs. 50,000/- to be deposited in a fixed deposit in her name for a period of five years).

7. The monthly interest on all the abovesaid fixed deposits shall be payable to Pushpa for running the day-to-day and eventual expenses of the family. The insurance company is directed to make the payment within one month from the date of this order. The appeal disposed of.