

(2012) 02 DEL CK 0272
In the Delhi High Court
Case No : MAC. APP. 481 of 2011

New India Assurance Co. Ltd.

APPELLANT

Vs

Ram Pal and Others

RESPONDENT

Date of Decision : 02-02-2012

Acts Referred:

Citation : (2012) 02 DEL CK 0272

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

Bench : Single Bench

Advocate : Kanwal Chaudhary, for the Appellant; Anshuman Bal, for 1(a) and 1(b), for the Respondent

Final Decision : Allowed

Judgement

G. P. Mittal, J.—The Appeal is for reduction of compensation of Rs. 7,52,111/- awarded for the death of Aarti @ Preeti, who was aged about 18 years at the time of the accident, which took place on 26.05.2010.

2. On 26.05.2010 at 6:15 PM the deceased was travelling as a pillion rider on a two wheeler. When the deceased and her companion reached Najafgarh near Metro pillar No.718, Uttam Nagar, Delhi a Bus No.DL-1PC-2161 hit the two wheeler. On account of the impact the two wheeler rammed into the Rickshaw and the deceased fell on the road. The deceased was crushed under the wheels of the Bus resulting into fatal injuries. The Appellant's grievance is that although the deceased's income was claimed to be Rs. 8,000/- per month yet there was no evidence to support this plea. During evidence the deceased's father deposed that the deceased used to work as a maid servant in various houses and was earning Rs. 8,000/- per month. In cross-examination, he admitted that she was earning only Rs. 4,000/- to Rs. 5,000/- per month. The Claims Tribunal took the minimum wages of an unskilled worker and added 50% on account of inflation to compute the loss of dependency. This was not permissible as the deceased was working only as a maid servant in various houses on part time basis. In the facts and circumstances of this case, it would have been fair to award compensation

on the basis of minimum wages of an unskilled worker without any addition.

3. I accordingly compute the loss of dependency to the parents (the deceased being unmarried daughter) as Rs. 4,43,352/- (Rs. 5,278 x 50% x 12 x 14 = Rs. 4,43,352/-).

4. The compensation of Rs. 40,000/- awarded towards loss of love and affection and Rs. 20,000/- on last rites without any evidence was on the higher side. The Tribunal failed to award any compensation towards loss of estate. On the basis of the judgment in Sunil Sharma and Others Vs. Bachitar Singh and Others, and in Baby Radhika Gupta and Others Vs. Oriental Insurance Co. Ltd. and Others, , the compensation under the head of loss of love and affection is reduced to Rs. 25,000/-. On the basis of the judgment of Supreme Court in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , the compensation towards funeral expenses and loss to estate is awarded as Rs. 10,000/- each.

5. The overall compensation is computed as under: -

S. No.

Compensation Head

Awarded by the Claims Tribunal

Awarded by the High Court

1.

Loss of Dependency

` 6,65,112/-

` 4,43,352/-

2.

Loss of Love & Affection

` 40,000/-

` 25,000/-

3.

Funeral Expenses

` 20,000/-

` 10,000/-

4.

Loss to Estate

` 10,000/-

TOTAL

` 7,25,112/-

` 4,88,352/-

6. The compensation stands reduced to Rs. 7,25,112/- to Rs. 4,88,352/- along with interim award, if any, with interest @ 7.5% per annum from the date of filing of the petition till the date of deposit of amount in this Court.

7. The compensation awarded shall be apportioned amongst the Claimants in the proportion as awarded by the Tribunal.

8. The excess amount along with interest, earned if any, shall be refunded to the Appellant Insurance Company.

9. The statutory deposit shall also be refunded to the Appellant.

10. The Appeal is allowed in above terms.

11. No costs.