(2012) 08 DEL CK 0395

In the Delhi High Court

Case No : MAC. APP. 911 of 2011

New India Assurance Company Ltd. APPELLANT

Vs

Naseema and Others RESPONDENT

Date of Decision : 30-08-2012

Acts Referred:

Citation : (2012) 08 DEL CK 0395

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

Bench : Single Bench

Advocate : K.L. Nandwani, for the Appellant;

Final Decision : Dismissed

Judgement

G.P. Mittal, J.—The Appellant New India Assurance Company Ltd. seeks reduction of compensation of Rs. 4,33,800/- awarded in favour of Respondents No. 1 to 8 for the death of Inulhaq who died in a motor vehicle accident which occurred on 04.02.2010. According to the Appellant Insurance Company, Respondents No. 1 to 8 had set up a case that deceased Inulhaq after his retirement from U.P. State Road Transport Corporation (UPSRTC) was employed as a helper with C.P. Bathroom Fittings, J.J. Colony, Industrial Area Bawana on a salary of Rs. 6,000/- per month.

2. In the absence of any proof of income, the Claims Tribunal took the minimum wages of a Matriculate as per the deceased''s qualification, took the Respondents No. 1 to 4 to be dependents and 5 to 9 to be non-dependent children, deducted one-fourth towards the personal and living expenses and applied the multiplier of ''7'' to compute the loss of dependency as Rs. 4,06,224/-.

3. It is urged by the Learned Counsel for the Appellant that since the deceased was aged 65 years and 25 days, the multiplier as per Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, should have been ''5'' instead of ''7''.

4. It is stated that since the deceased''s income was claimed to be Rs. 6,000/- per month, the Claims Tribunal committed an error in taking the income to be Rs. 6448/- per month.

5. The deceased was just 25 days above 65 years. The Claims Tribunal in its discretion, therefore, applied the multiplier of ''7'' which cannot be faulted. Even if, the loss of dependency is awarded on the sum of Rs. 6,000/- per month it comes to Rs. 3,78,000/- (6,000/- x 3/4 x 12 x 7) as against an award of Rs. 4,06,224/-.

6. It may be noticed that even if, a token sum of Rs. 25,000/- is awarded towards loss of love and affection and the compensation of Rs. 7,500/- awarded towards funeral expenses is raised to Rs. 10,000/-, which is normally awarded even in the absence of any evidence with regard to the expenditure on last rites, the overall compensation would come to Rs. 4,33,000/- as against a sum of Rs. 4,33,800/- awarded by the Claims Tribunal.

7. Should an Insurance Company file Appeals where such a small amount of compensation has been awarded for the death of an old person, the liability of the Insurance Company is not disputed and a variation, if any, claimed is paltry? An old lady lost financial and moral support and the company of her husband at the fag end of her life. Instead of settling the Respondents'' claim at the pre litigation stage or even after filing of the Claim Petition, the Appellant New India Assurance Company wanted to stall the payment of such a paltry compensation by filing the instant Appeal.

8. In Narinder Bishal & Anr. v. Rambir Singh & Ors., MAC APP. 1007-08/2006, decided by this Court on 20.02.2008, the learned Single Judge of this Court echoed his sentiments as under:-

35. With the massive progress in urbanization and industrialization in the recent times, we have switched from fast to faster vehicular traffic which has come as a boon to many and as a bane to some. There has been an acceleration in automobile traffic, which concomitantly has resulted in escalating statics of motor vehicular accidents culminating in to casualties of human lives. There has been an alarming increase in the road accidents. Accidents on Indian roads are perhaps the second highest in the world and about ninety six thousand people were killed in road accidents in the year 2005 itself. As per the recent data released by Delhi Police, a total of 8270 accidents had occurred in the capital in the year 2006, in which about 2050 people were killed. The blue line buses are the major killers as far as Delhi is concerned. These killer blue line buses have played havoc on Delhi roads and every year many precious lives get sacrificed by these blue line buses who have unleashed a kind of death drive putting in danger the lives of Delhities on the roads of the capital. Death of any person in a family torments and shatters the entire family more particularly when it is death of a sole bread winner. No amount of compensation can bring back the family to the same position. The victims of accident and their family members not only

undergo the traumatized and harrowing experience of losing a family member but also they are made to suffer greatest humiliation and embarrassment right from mortuary till the award of compensation. The apathy and insensitivity of various government and other agencies involved in the process instead of lending a helping hand place all sorts of hindrances to make the life of victims and their families worst and miserable. It is a great irony in this country that the insurance companies are prompt in settling the claims of the insured vehicles for its damage but create all sorts of obstructions and bottlenecks in settling the claims of victims of the accidents. The precious life of a human being is of little concern in comparison to settlement of a claim for the damaged motor vehicle in the estimation of these insurance companies. On reporting damage to a vehicle, immediate steps are initiated by the insurance companies to appoint an investigator/surveyor and photographer etc., for assessing the damage caused to the vehicle and practically no time is lost to get the vehicle repaired and restore the same to original condition. The insurance companies have tied up arrangements with various car manufacturers and the leading auto workshops to help out the insured for immediate delivery of the vehicle after the same is met with an accident. Atrociously, no similar pains are taken by these insurance companies to compensate the victims of the accidents in the injury cases or to the dependent family members in fatal accident cases. The broad parameters for the grant of compensation are almost settled through various recent authoritative pronouncements of the Apex Court and of various state High Courts. In a recent judgment of the Supreme Court, entitled V. Subbulakshmi & Ors. vs. S. Lakshmi & Anr. in Civil Appeal No. 990/2008 the Court has even gone to the extent of holding that in such like cases the compensation can be granted even by guess work. In this scenario, the Court is of the opinion that insurance companies should make a serious endeavor to settle the compensation cases preferably at pre-litigation stage and if not at pre-litigation then at least at the earliest possible stage before the Claims Tribunals and in any case at the time of passing of the interim award at least in those cases where there is an admitted liability of the insurer to pay the compensation amount. The payment of compensation amount can be made tentatively to the claimants taking in view the broad legal principles settled by the Apex Court and High Courts. The realities of life cannot be overlooked. The victims of accident and their family members should not be made to wait for the compensation amount to reach after spending long years in courts, making them vulnerable to come under heavy debts for meeting day to day expenses of life. This exercise by the insurance companies will not only provide speedy justice to the victims and dependent family members of the victims of the road accidents but will also considerably help the insurance companies to save millions of rupees which gets paid by these companies due to the accumulation of interest amount on the compensation amount to be ultimately awarded by the Tribunal due to time consuming trials before MACT courts. Such payment of compensation at the early stage would also be of immense help to the victims of the accidents, especially, in those cases where the life of a lone breadwinner is lost. this Court hope and trust that all the insurance companies shall immediately take suitable steps in this direction so as to provide immediate succour to the dependent family members of the deceased or the victims of the accident in the same manner as they swung into action to settle the claims in respect of the damaged vehicles. The MACT Tribunals are also directed to ascertain from the insurance companies through their respective counsels at the first available opportunity as to whether the insurance companies are ready and willing to pay some reasonable amount of compensation tentatively as per their own assessment in all those cases of admitted liability and then take on record the response given by the insurance companies to such a query of the MACT court. In any event, life of a human being is not cheaper than a ''Nano'' car. In any given case where concerned officials of these insurance companies do not initiate action in this direction, then suitable explanation may be called for by the high-ups of the same company or by its regulating authority i.e. Insurance Regulatory & Development Authority, as non payment of legitimate compensation amount at the initial stage will ultimately unnecessarily burden the company to pay interest amount for the entire trial period.

9. The Appeal is dismissed with costs of Rs. 25,000/- which shall be paid to the First Respondent within eight weeks, failing which, the statutory deposit of Rs. 25,000/- shall be released in favour of the First Respondent.

10. Pending Applications stand disposed of. A copy of the judgment be sent to the General Manager of the Appellant New India Assurance Company Limited to examine the propriety of preferring Appeals in such cases.

