
(2012) 05 DEL CK 0123

In the Delhi High Court

Case No : MAC. APP. No. 543 of 2011 and Mac. App. No. 202 of 2012

New India Insurance Co. Ltd.

APPELLANT

Vs

Soni Bai and Another
 Soni Bai and Another Vs New
India Insurance Co. Ltd.

RESPONDENT

Date of Decision : 10-05-2012

Acts Referred:

Motor Vehicles Act, 1988 — Section 163A

Citation : (2012) 05 DEL CK 0123

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

Bench : Single Bench

Advocate : Kanwal Chaudhary in MAC. app. No. 543/2011 and Mr. Anshuman Bal in MAC. app. No. 202/2012, for the Appellant; Anshuman Bal, Advocate for the Respondents No. 1 and 2 in MAC. APP. No. 202/2012 and Mr. Kanwal Chaudhary, Advocate in MAC. APP. No. 543/2011, for the Respondent

Judgement

G.P. Mittal, J.—These two Appeals MAC APP No. 543/2011 and MAC APP No. 202/2012 arise out of a judgment dated 01.04.2011 passed in a Claim Petition u/s 163A of the Motor Vehicles Act whereby a compensation of Rs. 3,38,516/- was awarded for the death of Suraj a 19 years old son of the Appellant in MAC APP No. 543/2011. Both the Appellant (Insurance Company) and the Cross-Objectionists (the Claimants) say that in a Petition u/s 163A of the Act, compensation has to be awarded as per the structured formula. This court after analyzing the law in MAC APP No. 304/2009 titled New India Assurance Co. Ltd. v. Pitamber & Ors. decided on 23.01.2012 held that the compensation in a Petition u/s 163A has to be awarded on the basis of structured formula.

2. The deceased's income was claimed to be Rs. 3300/- per month The Claims Tribunal in the absence of any cogent evidence granted the compensation on the basis of minimum wages of an unskilled worker i.e. Rs. 3,271/- per month. The compensation towards loss of dependency comes to Rs. 4,71,023/-(3271 X 2/3 X 12 X 18). On adding a further sum of Rs. 2500/- towards funeral expenses and Rs. 2000/- towards loss to estate, the overall compensation comes to Rs.

4,75,523/-.

3. The compensation thus stands enhanced from Rs. 3,38,516/- to Rs. 4,75,523/-.

4. The compensation deposited in MAC APP No. 543/2011 shall be released in favour of the Respondent No. 1 in terms of the order passed by the Claims Tribunal.

5. The enhanced compensation of Rs. 1,37,007/- shall carry interest @ 7.5% per annum and shall be payable to the Respondents No. 1 and 2 (the Claimants and Cross-Objectors) in equal proportion.

6. The Appellant Insurance Company is directed to deposit the enhanced amount along with interest in favour of the Respondents No. 1 and 2 in UCO Bank, Delhi High Court Branch within six weeks.

7. The statutory amount of Rs. 25,000/- shall be refunded to the Appellant Insurance Company. Both the Appeals are disposed of accordingly.