(2012) 01 DEL CK 0372

In the Delhi High Court

Case No : MAC. APP. No. 471 of 2011

Nirmala Devi and Others — APPELLANT

Vs

Sanjeev Kumar and Others — RESPONDENT

Date of Decision : 18-01-2012

Acts Referred:

Citation : (2012) 01 DEL CK 0372

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

Bench : Single Bench

Advocate : S.N. Parashar, for the Appellant; K.L. Nandwani, for R-3, for the Respondent

Final Decision : Dismissed

Judgement

G.P. Mittal, J.—This case relates to the death of Suraj Pal Yadav, who died in an accident, which took place on 23.02.2008. The deceased was working as a Head Master in Municipal Corporation Primary School, Tahirpur Village, Shahdara, Delhi. The claim petition was filed by the widow and four adult sons of the deceased. The youngest son is aged 31 years. The Tribunal took the deceased''s income as Rs. 10,900/- (after deduction of 50% towards living expenses) and on applying a multiplier of ''9'' as per the deceased''s age calculated the loss of dependency as Rs. 11,77,200/- and granted a sum of Rs. 10,000/- each to the five Appellants towards loss of love and affection, Rs. 5,000/- towards loss of consortium, Rs. 5,000/- towards funeral expenses and Rs. 5,000/- towards transportation charges under non-pecuniary heads. Learned counsel for the Appellant on the basis of National Insurance Co. Ltd. v. Meghji Naran Soratiya & Ors., II (2009) ACC 289 (SC), submits that 1/3rd deduction ought to have been made towards personal living expenses of the deceased.

2. The National Insurance Co. Ltd. v. Meghji Naran Soratiya & Ors. (supra) cannot be said to be an authority on the point that where a deceased leaves behind a widow and non-dependent children, deduction of 1/3rd is to be made on account of personal living expenses. Since, only the widow was dependent on

the deceased, the Claims Tribunal was right in deducting 50% of deceased''s income towards his personal and living expenses. The compensation awarded was just and reasonable and does not call for any interference.

3. It is important to note that normally Tribunals and Higher Courts grant a sum of Rs. 25,000/- towards loss of love and affection. In the latest judgment of Supreme Court in Raj Rani and Others Vs. Oriental Insurance Co. Ltd. and Others, only a sum of Rs. 5,000/- was granted towards loss of love and affection. Moreover, there was liability of income tax on the income of Rs. 2,50,000/- per annum. No deduction was made by the Tribunal towards liability of the income tax. The deceased left behind four sons, who were above the age of 31 years. There was no specific evidence that any one of them was financially dependent. The Appeal is without any merit and is accordingly dismissed.

