

(2012) 05 DEL CK 0254
In the Delhi High Court
Case No : MAC APP 579 of 2012

Oriental Insurance Co. Ltd.

APPELLANT

Vs

Ekrammuddin and Others

RESPONDENT

Date of Decision : 23-05-2012

Acts Referred:

Citation : (2012) 05 DEL CK 0254

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

Bench : Single Bench

Advocate : Tarkeshwar Nath and Mr. Saurabh Kumar Tuteja, for the Appellant;

Final Decision : Dismissed

Judgement

G. P. Mittal, J.—This Appeal is for reduction of compensation of Rs. 3.75,000/- awarded for the death of Nadeem a 10 years old school going boy who died in an accident which occurred on 21.01.2007. The Claims Tribunal relying on the judgment of his Court in National Insurance Co. Ltd. Vs. Farzana and Others, awarded a compensation of Rs. 3.75 lacs.

2. It is urged by the learned counsel for the Appellant that deduction of 1/3rd must be made towards personal and living expenses as was laid down in R.K. Malik v. Kiran Pal 2007 ACJ 2010.

3. In the case of Manju Devi & Anr. v. Musafir Paswan & Anr. VII (2005) SLT 257 a boy aged 13 years died in a accident which occurred on 02.07.1998, the Supreme Court granted a compensation of Rs. 2,25,000/- on a multiplier of 15 without making deduction of 1/3rd towards personal and living expenses. Para 3 of the report in Manju Devi (supra) is extracted hereunder:-

As set out in the Second Schedule to the Motor Vehicles Act, 1988, for a boy of 13 years of age, a multiplier of 15 would have to be applied. As per the Second Schedule, he being a non-earning person, a sum of Rs. 15,000/- must be taken as the income. Thus, the compensation comes to Rs. 2,25,000/-"

4. This Court in *Shyam Narayan v. Kitty Toors*, IV (2005) ACC 1 relying on the judgment of *Manju Devi* (supra) granted a sum of Rs. 2,25,000/- towards loss of dependency in case of death of a minor child aged 5 years.
5. This Court in *R.K. Malik v. Kiran Pal* 2007 ACJ 2010 granted a compensation of Rs. 75,000/- towards non pecuniary damages i.e. towards pain and suffering, loss of expectancy of life which was upheld by the Supreme Court in *R.K. Malik v. Kiran Pal* 2009 SCC (8) scale 451. The Supreme Court further awarded a sum of Rs. 75,000/- towards future prospects.
6. This Court on the basis of the judgment in *Manju Devi* (supra) *R.K. Malik* (supra) (decided by this Court) and *R.K. Malik* (supra) (decided by the Supreme Court) granted a compensation of Rs. 3,75,000/- (i.e. Rs. 2,25,000/- towards loss of dependency, Rs. 75,000/- towards non pecuniary damages and Rs. 75,000/- towards future prospects).
7. I do not find any ground to interfere with the impugned judgment.
8. The Appeal is devoid of any merit. The same is accordingly dismissed.
9. The statutory amount of Rs. 25,000/- shall be refunded to the Appellant Insurance Company. Pending Applications also stand disposed of.