
(2009) 10 DEL CK 0136

In the Delhi High Court

Case No : M.A.C. A.P.P. No. 611 of 2007

Oriental Insurance Co. Ltd.

APPELLANT

Vs

Ved Prakash Madan and Others

RESPONDENT

Date of Decision : 07-10-2009

Acts Referred:

Citation : (2009) 10 DEL CK 0136

Hon'ble Judges : J.R. Midha, J

Bench : Single Bench

Advocate : L.K. Tyagi, for the Appellant; Dushyant Swaroop and Asha Garg for R-1, for the Respondent

Judgement

J.R. Midha, J.—The appellant has challenged the award of the learned Tribunal whereby compensation of Rs. 16,08,928/- has been awarded to respondent No. 1.

2. The accident dated 13th January, 2006 resulted in the death of Rakesh Madan. The deceased was survived by his father who filed the claim petition before the learned Tribunal.

3. The deceased was aged 27 years at the time of the accident and was working as Senior Supervisor (Production) with M/s Accmee Chemicals at a salary of Rs. 11,000/- per month. The learned Tribunal deducted 1/3rd towards the personal expenses of the deceased and applied the multiplier of 18 to compute the loss of dependency at Rs. 15,83,928/-. Rs. 5,000/- has been awarded towards the funeral expenses and Rs. 20,000/- towards loss of love and affection. The total compensation awarded is Rs. 16,08,928/-.

4. The learned Counsel for the appellant submits that the deduction towards the personal expenses should be 1/2 instead of 1/3rd. The learned Counsel for the appellant further submits that the appellant was aged 65 years at the time of the accident and the appropriate multiplier according to the age of the appellant is 5.

5. According to the recent judgment of the Hon^{ble} Supreme Court in the case of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , the appropriate deduction in the case of death of an unmarried person is 1/2. The deduction towards the personal expenses of the deceased is, therefore, enhanced from 1/3rd to 1/2. It is also well settled that the multiplier has to be taken according to the age of the father who was 65 years at the time of the accident. According to the judgment of the Hon^{ble} Supreme Court in the case of Sarla Verma (supra), the appropriate multiplier at the age of 65 years is 5. The multiplier is, therefore, reduced from 18 to 5.

6. The learned Tribunal has not taken the future prospects of the deceased into consideration while computing the compensation. The deceased was earning Rs. 11,000/- per month at the time of the accident and 50% is added towards the future prospects. The income of the deceased for computation of compensation is taken to be Rs. 16,500/- (Rs. 11,000 + Rs. 5,500 towards future prospects). 1/2 is deducted towards personal expenses of the deceased and the multiplier of 5 is applied to compute the loss of dependency at Rs. 4,95,000/-. The learned Tribunal has awarded Rs. 5,000/- towards the funeral expenses and Rs. 20,000/- towards loss of love and affection which are not disturbed in the facts and circumstances of this case. The learned Tribunal has not awarded any compensation towards the loss of estate. Considering the facts and circumstances of this case, Rs. 30,000/- is awarded towards the loss of estate. The total compensation payable by the appellant to claimant/respondent No. 1 is computed to be Rs. 5,50,000/- (Rs. 4,95,000 + Rs. 5,000 towards funeral expenses + Rs. 20,000 towards loss of love and affection and Rs. 30,000/- towards loss of estate).

7. The appeal is allowed and the award amount is reduced from Rs. 16,08,928/- to Rs. 5,50,000/- along with interest @7.5% per annum from the date of filing of the petition till realization.

8. The appellant has deposited the entire award amount along with interest in terms of the order dated 8th October, 2007 out of which a sum of Rs. 5,00,000/- has been released to respondent No. 1. Respondent No. 1 has also received the interim compensation of Rs. 50,000/-. As such the entire principal award amount has already been received by respondent No. 1. The interest on Rs. 5,00,000/- from the date of filing of the petition till payment of Rs. 5,00,000/- to respondent No. 1 be released by the Registry to respondent No. 1. The remaining amount along with statutory amount of Rs. 25,000/- be released to the appellant through counsel within four weeks.

9. Copy of this order be given 'Dasti' to learned Counsel for the parties under the signature of Court Master.