

(2010) 02 DEL CK 0248

In the Delhi High Court

Case No : M.A.C. Appeal No. 533 of 2008

Oriental Insurance Company Ltd.

APPELLANT

Vs

Pankaj Sharma and others

RESPONDENT

Date of Decision : 09-02-2010

Acts Referred:

Citation : (2010) 2 ACC 150 : (2011) ACJ 1670

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

Bench : Single Bench

Advocate : L.K. Tyagi, for the Appellant; Navneet Goyal, for the Respondent

Final Decision : Allowed

Judgement

J.R. Midha, J.—The Appellant has challenged the award of the learned Tribunal whereby compensation of Rs. 5,70,000 has been awarded to the claimants-Respondent Nos. 1 to 3.

2. The accident dated 26.3.2006 resulted in the death of Sharda Devi Sharma. The deceased was survived by her two sons and a daughter who filed the claim petition before Motor Accidents Claims Tribunal.

3. The deceased was aged 43 years at the time of the accident and was doing the stitching work. The learned Tribunal treated the deceased as a housewife and took the value of her services as Rs. 3,000 per month following the judgment of the Hon'ble Supreme Court in the case of Lata Wadhwa and Others Vs. State of Bihar and Others, . The learned Tribunal has applied the multiplier of 15 to compute the loss of dependency at Rs. 5,40,000. Rs. 20,000 has been awarded towards loss of love and affection and Rs. 10,000 towards funeral expenses. The total compensation awarded is Rs. 5,70,000.

4. The Learned Counsel for the Appellant submits that 73rd should be deducted from the value of services of the deceased and the multiplier be reduced from 15 to 14. It is well settled by the judgment of Hon'ble Supreme Court in the case of

Lata Wadhwa (supra), that no deduction is permissible from the value of services of the deceased and, therefore, the learned Tribunal was right in not deducting any amount from the value of the services of the deceased. The deceased was aged 43 years at the time of the accident and the appropriate multiplier according to the judgment of the Hon'ble Apex Court in the case of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , is 14 whereas the learned Tribunal has applied the multiplier of 15. The multiplier is, therefore, reduced from 15 to 14.

5. Taking the value of the services of the deceased to be Rs. 3,000 per month and applying multiplier of 14, the loss of dependency is computed to be Rs. 5,04,000 (Rs. 3,000 x 12 x 14).

6. The learned Tribunal has not awarded any compensation for loss to estate. Rs. 10,000 is awarded for loss to estate. Adding Rs. 10,000 towards loss to estate, Rs. 20,000 for loss of love and affection and Rs. 10,000 towards funeral expenses, the total compensation is computed to be Rs. 5,44,000 (Rs. 5,04,000 + Rs. 10,000 + Rs. 20,000 + Rs. 10,000).

7. The appeal is allowed and the award amount is reduced from Rs. 5,70,000 to Rs. 5,44,000 along with interest at the rate of 7.5 per cent per annum from the date of filing of the petition till realization.

8. The Appellant has deposited the entire award amount along with interest with the Registrar General of this Court in terms of the order dated 17.11.2008 out of which 75 per cent of the amount has been released to the claimants.

9. The Registrar General is directed to release the amount payable to claimants in terms of this judgment. The shares of the claimants in the said amount shall be equal. The balance amount after payment in terms of this judgment along with the statutory amount be refunded back to the Appellant through counsel within four weeks.

10. Copy of this order be given dasti to Learned Counsel for the parties under the signature of Court Master.