

(2012) 12 DEL CK 0066
In the Delhi High Court
Case No : MAC. APP. 570 of 2012

Reliance General Insurance Co. Ltd.

APPELLANT

Vs

Deepak Malhotra and Others

RESPONDENT

Date of Decision : 03-12-2012

Acts Referred:

Citation : (2012) 12 DEL CK 0066

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

Bench : Single Bench

Advocate : K.L. Nandwani, for the Appellant; B.R. Sharma, Advocate for the Respondents No. 1 and 2, for the Respondent

Judgement

G.P. Mittal, J.—The Appeal is for reduction of compensation of Rs. 3,12,370/- awarded by Motor Accident Claims Tribunal (the Claims Tribunal) in favour of the Respondents No. 1 and 2 for the death of their father Amrit Lal Malhotra, who was aged 66 years at the time of the accident. During the inquiry before the Claims Tribunal, it was established that the Claimants were not financially dependent on the deceased. The deceased was stated to be self-employed; however, no evidence was produced with regard to the deceased's income. The Claims Tribunal, therefore, took the minimum wages of a graduate (as per qualification of the deceased) and granted 1/3rd of the deceased's income towards loss to estate.

2. It is urged by the learned counsel for the Appellant that the compensation of Rs. 50,000/- towards funeral charges and Rs. 1,00,000/- towards loss of love and affection is exorbitant and excessive.

3. On the other hand, the learned counsel for the Respondents No. 1 and 2 urges that the compensation awarded is just and reasonable.

4. The funeral expenses are awarded as per the actual expenditure. No evidence was produced by the Appellant with regard to the same. In the absence of any evidence, it would be appropriate to award a sum of Rs. 10,000/- only towards

funeral expenses.

5. Loss of love and affection can never be measured in terms of money. Thus, uniformity has to be adopted by the Courts while granting non-pecuniary damages. The Supreme Court in Sunil Sharma and Others Vs. Bachitar Singh and Others, and in Baby Radhika Gupta and Others Vs. Oriental Insurance Co. Ltd. and Others, granted Rs. 25,000/- (in total to all the claimants) under the head of loss of love and affection. Thus, I would reduce the compensation under this head to Rs. 25,000/- only.

6. The excess amount of Rs. 1,15,000/- along with proportionate interest and the interest accrued, if any, during the pendency of the Appeal shall be refunded to the Appellant Insurance Company.

7. The balance amount shall be released in equal shares in favour of the Respondents No. 1 and 2 (Claimants).

8. Statutory amount of Rs. 25,000/-, if any, shall be refunded to the Appellant Insurance Company. Pending Applications stand disposed of.