(2012) 05 DEL CK 0212

In the Delhi High Court

Case No : MAC. App. No. 425 of 2011

Reliance General Insurance Co. Ltd. APPELLANT

Vs

Smt. Lalita and Others RESPONDENT

Date of Decision : 14-05-2012

Acts Referred:

Citation : (2012) 05 DEL CK 0212

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

Bench : Single Bench

Advocate : K.L. Nandwani, for the Appellant; R.L. Sharma, Advocate for the Respondents No. 5 and 6, for the Respondent

Final Decision : Allowed

Judgement

G.P. Mittal, J.—The Appellant Insurance Company impugns a judgment dated 31.01.2011 whereby a compensation of Rs. 30,37,000/- was awarded for the death of Sudhir Kumar Sharma who died in an accident which occurred on 17.10.2009. The Appellant''s grievance is that it was not given opportunity to prove that the driver did not possess a valid driving licence and that the compensation awarded is exorbitant and excessive.

2. The application for additional evidence filed by the Appellant Insurance Company was dismissed by an order dated 07.02.2012 wherein it was held that sufficient opportunity was granted to the Appellant Insurance Company to prove its defence. Since no evidence was produced by the Insurance Company to prove that the Respondent No. 5 (Joginder) the driver of the offending vehicle did not possess any valid driving licence on the date of the accident, the Appellant Insurance Company having failed to discharge the onus, cannot avoid its liability to indemnify the insured.

3. As far as quantum of compensation is concerned, the only ground of challenge is that the compensation of Rs. 1,00,000/- awarded towards loss of love and affection is on the higher side.

4. The 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) only under the head of loss of love and affection. Thus, I would reduce the compensation under this head to Rs. 25,000/- only.

5. No other contention has been raised.

6. The compensation thus stands reduced from Rs. 30,37,000/- to Rs. 29,62,000/- .

7. It was urged that the interest on the award amount granted @ 9% was excessive and exorbitant. The contention raised is totally misconceived. Normally, the Claims Tribunal and the Courts in Motor Accident Claims cases grant interest as per the bank rate of interest on long-term fixed deposits prevalent at the time of the accident. This accident took place in the year 2009 and the Claim Petition came to be decided in the year 2011. During this period, the rate of interest on long-term deposits were in the vicinity of 8 to 9% per annum. Thus, the Claims Tribunal was justified in granting the interest @ 9% per annum. Thus, it cannot be said to be exorbitant and excessive.

8. The excess amount of Rs. 75,000/- along with proportionate interest and the interest, if any, accrued during the pendency of the Appeal shall be refunded to the Appellant Insurance Company.

9. The amount of compensation along with interest as held payable by this Court shall be released/held in Fixed Deposit in favour of the Respondents (Claimants) in terms of the order passed by the Claims Tribunal.

10. The statutory amount of Rs. 25,000/- shall be returned to the Appellant Insurance Company. The Appeal is allowed in above terms.