(2012) 02 DEL CK 0312

In the Delhi High Court

Case No : MAC. APP. No. 978 of 2011

Reliance General Insurance Company Ltd. APPELLANT

Vs

Shri Chand Naran Jasuja and Another RESPONDENT

Date of Decision : 28-02-2012

Acts Referred:

Citation : (2012) 02 DEL CK 0312

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

Bench : Single Bench

Advocate : Pankaj Seth, for the Appellant; D.K. Sharma, Advocate for the Respondents No. 1 to 6 and Mr. R.K. Singh with Mr. Kumar Gaurav, Advocates for the Respondents No. 7 and 8, for the Respondent

Final Decision : Allowed

Judgement

G.P. Mittal, J.—The Appellant Reliance General Insurance Company Ltd. seeks reduction of compensation of Rs. 32,72,800/- awarded for the death of Narender Kumar who died in a motor accident which occurred on 16.12.2009.

2. The sole contention raised on behalf of the Appellant is that a sum of 762/- towards transport allowance and a sum of Rs. 60/- towards washing allowance were personal allowances incidental to the deceased''s employment. They should have been deducted from the deceased''s salary while computing the loss of dependency.

3. On the other hand, it is urged by the Learned Counsel for the Respondents No.1 to 6 that the overall compensation cannot be said to be excessive. It is urged that a sum of Rs. 10,000/- was awarded towards the loss of love and affection and if the compensation is suitably raised under this head, it would come to almost the same amount.

4. The Appeal must succeed on both the counts.

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 only Rs. 25,000/- (in total to all the claimants) under the head of loss of love and affection. Thus, I would enhance the compensation under this head to Rs. 10,000/- to Rs. 25,000/- only.

6. As far as the loss of dependency is concerned, there was no liability of income tax on the deceased''s income of Rs. 1,59,432/- (14108 - 762 (TPA) - 60(WA) x 12). On adding 50% towards future prospects as the deceased was aged 29 years, the loss of dependency comes to Rs. 30,49,137/- (1,59,432 + 50% x 3/4 x 17).

7. The overall compensation re-assessed as under:-

Sl. No.

Compensation under various heads

Awarded by the Claims Tribunal

Awarded by this Court

1.

Loss of Dependency

Rs. 32,37,786/-

rrr Rs. 30,49,137/-

2.

Loss to Estate

Rs. 10,000/-

Rs. 10,000/-

2.

Loss of Consortium

Rs. 10,000/-

Rs. 10,000/-

3.

Funeral Expenses

Rs. 5,000/-

Rs. 5,000/-

3.

Loss of Love & Affection

Rs. 10,000/-

Rs. 25,000/-

Total Rounded off

Rs. 32,72,786/- Rs. 32,72,800/-

Rs. 30,99,137/-

8. The excess amount of Rs. 1,73,663/- along with accrued interest, if any, shall be returned to the Appellant along with statutory amount of Rs. 25,000/-.

9. The Appeal is allowed in above terms.