

(2012) 03 DEL CK 0465

In the Delhi High Court

Case No : MAC. App. No. 128 of 2011 and MAC. App. No. 454 of 2011

Sita Devi and Another

APPELLANT

Vs

Virender Singh Rawat and Others
 The Oriental
Insurance Co. Ltd. Vs Sita Devi and Another

RESPONDENT

Date of Decision : 05-03-2012

Acts Referred:

Citation : (2013) ACJ 2116

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

Bench : Single Bench

Advocate : L.S. Chaudhary, in MAC. app. No. 128/2011 and Mr. A.K. Soni, in MAC. app. No. 454/2011, for the Appellant; A.K. Soni, Advocate for Respondent No. 3 Insurance Company, in MAC. App. No. 128/2011 and Mr. L.S. Chaudhary, Advocate, in MAC. App. No. 454/2011, for the Respondent

Final Decision : Dismissed

Judgement

G.P. Mittal, J.—These are two Cross-Appeals arising out of a judgment dated 03.01.2011 whereby a compensation of Rs. 13,35,000/- was awarded for the death of Ajay Bharti, a BAMS student. His potential income was taken to be Rs. 15,000/-, after deducting 50% towards personal and living expenses (since he was a bachelor), and on adopting a multiplier of 14, the loss of dependency was assessed as Rs. 12,60,000/-. In fact, initially an order for monthly payment of compensation was passed by the Claims Tribunal by an order dated 18.03.2009. The same was challenged by the Oriental Insurance Co. Ltd. in MAC APP. 356/2009. During pendency of the Appeal, a direction was issued to the Secretary/Registrar, Central Council of Indian Medicine, Ministry of Health and Family Welfare, Government of India and Delhi Bhartiya Chikitsa Parishad, Department of Health and Family Welfare, Govt. of NCT of Delhi to provide relevant data as to the prospective income of a student on completion of BAMS course. A letter dated 08.04.2010 was written to the Registrar General of this Court by the Secretary, Central Council of Indian Medicine, Ministry of Health and Family Welfare, Government of India informing that the starting salary of a BAMS

student after implementation of the 6th Pay Commission (w.e.f. 01.01.2006) would be about Rs. 29,160/-.

2. In the case of a student pursuing a professional course, the Tribunal is to consider the potential income of the deceased after completion of the course. In the case of Haji Zainullah Khan (Dead) by Lrs. Vs. Nagar Mahapalika, Allahabad, , death of a young boy, aged 20 years took place in an accident which happened in the year 1972. The deceased was a student of B.Sc Ist year (Biology), a compensation of Rs. 1,46,900/- was increased and rounded off to Rs. 1,50,000/-.

3. In Ganga Devi & Ors. v. New India Assurance Co. Ltd. & Ors. MAC APP. 359/2008, decided by this Court on 23.11.2009, which related to the death of a student (studying medicine) who was doing internship and was to be awarded MBBS degree in a short time, the Tribunal awarded a compensation of Rs. 9,35,352/- on the basis of the minimum wages of a Graduate. This Court observed that although the deceased was getting a stipend of Rs. 5,000/- per month at the time of his death in the accident, he would have ultimately joined as a doctor at a salary ranging between Rs. 16,000/- per month to Rs. 25,000/- per month. Thus, average monthly income of the deceased was taken as Rs. 18,000/- and after adding 50% towards future prospects, the compensation was enhanced to Rs. 21,36,000/-.

4. Learned counsel for the Claimants submits that some future prospects should be added in the salary as shown in the letter dated 08.04.2010, whereas Mr. A.K. Soni, Advocate appearing on behalf of the Insurance Company submits that it is only a few graduates in Indian Medicine Ayurveda (BAMS) who would get employment with the Government. I would agree that it would be only a few graduates in Ayurvedic Medicine who would be able to get Government employment. In the circumstances, I would take potential income of the deceased Ajay Bharti to be Rs. 25,000/- (inclusive of future prospects). On deducting 50% towards personal living expenses and adopting a multiplier of 14 as per the age of the deceased's mother, deducting Income Tax of Rs. 40,000/-, the loss of dependency comes to Rs. 18,20,000/- (Rs. 2,60,000/- $\times$ 14). On adding a sum of Rs. 25,000/- towards loss of love and affection (Sunil Sharma and Others Vs. Bachitar Singh and Others, and Baby Radhika Gupta and Others Vs. Oriental Insurance Co. Ltd. and Others, and Rs. 10,000/- towards loss to estate and Rs. 10,000/- towards funeral expenses, the overall compensation comes to Rs. 18,65,000/-.

5. The enhanced compensation of Rs. 5,30,000/- shall carry interest @ 7.5% per annum as granted by the Claims Tribunal. The enhanced compensation of Rs. 5,30,000/- along with interest shall be deposited by the Oriental Insurance Co. Ltd. with the Registrar General of this Court within six weeks.

6. The amount of enhanced compensation along with interest shall be disbursed equally in favour of the Appellants Claimants in MAC APP. No. 128/2011 and shall

be held in a Fixed Deposit for a period of three years with UCO Bank, Delhi High Court Branch.

7. Statutory amount of Rs. 25,000/- shall be released to the Appellant Oriental Insurance Company Ltd. in MAC APP No. 454/2011.

8. The compensation already deposited shall be released/held in Fixed Deposit as directed by the Claims Tribunal.

9. MAC APP. No. 128/2011 is allowed in above terms. MAC APP No. 454/2011 stands dismissed.