
(2012) 12 DEL CK 0126
In the Delhi High Court
Case No : MAC. APP. 252 of 2012

Sriram General Insurance Company Ltd.	APPELLANT
Vs	
Prabhu and Others	RESPONDENT

Date of Decision : 04-12-2012

Acts Referred:

Citation : (2013) 133 DRJ 492

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

Bench : Single Bench

Advocate : Sameer Nandwani, with Ms. Shivani Bansal, for the Appellant; J.P.N. Shahi, for R-1 to R-5. and Mr. S.K. Raut, for R-6 and R-7, for the Respondent

Final Decision : Dismissed

Judgement

G.P. Mittal, J.—The Appeal is for reduction of compensation of Rs. 13,31,000/- awarded by the Motor Accident Claims Tribunal (the

Claims Tribunal) in favour of the Respondents No. 1 to 5 who are the legal representatives of deceased Saroj, who died in a motor vehicle

accident which occurred on 18.01.2011. The finding on negligence is not challenged by the Appellant Insurance Company; thus the same has

attained finality.

2. During inquiry before the Claims Tribunal it was claimed that apart from carrying out the household work the deceased was working as a maid

servant and was earning Rs. 7,000/- per month.

3. In the absence of any evidence with regard to deceased's income the Claims Tribunal took Rs. 6,000/- (stating to be the minimum wages of

skilled worker at the time of the accident) as her income, deducted one-fourth towards personal and living expenses, added 50% towards inflation

and applied the multiplier of 16 to compute the loss of dependency as Rs. 12,96,000/-.

4. The Claims Tribunal further awarded Rs. 10,000/- each towards loss of consortium, loss to estate and love and affection and Rs. 5,000/- as funeral expenses.

5. It is urged by the learned counsel for the Appellant that the minimum wages of a skilled worker at the time of the accident were Rs. 5278/- per

month. The Claimants failed to adduce any evidence that the deceased was working as a maid servant. The legal representatives thus, could have

been granted compensation on the basis of only loss of gratuitous services rendered by the deceased as a housewife.

6. Learned Counsel for the Claimants states that he has no objection if the compensation is awarded towards loss of gratuitous services rendered by the deceased as a home maker.

7. Otherwise also, in the absence of any evidence with regard to deceased's income the Claims Tribunal ought to have granted compensation on account of loss of gratuitous services rendered by the deceased.

8. In *Royal Sundaram Alliance Insurance Co. Ltd. v. Master Manmeet Singh & Ors.*, 2012 ACJ 721, this Court noticed following judgments of the Supreme Court:-

(i) *General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others*,

(ii) *National Insurance Company Limited v. Deepika & Ors.*, 2010 (4) ACJ 2221,

(iii) *Amar Singh Thukral v. Sandeep Chhatwal*, ILR (2004) 2 Del 1,

(iv) *Lata Wadhwa and Others Vs. State of Bihar and Others*,

(v) *Gobald Motor Service Ltd. and Another Vs. R.M.K. Veluswami and Others*,

(vi) *A. Rajam Vs. M. Manikya Reddy and Another*

(vii) *Morris v. Rigby* (1966) 110 Sol Jo 834 and

(viii) *Regan v. Williamson* 1977 ACJ 331 (QBD England),

and laid down the principle for determination of loss of dependency on account of gratuitous services rendered by a housewife. Para 34 of the

judgment in *Master Manmeet Singh* (supra) is extracted hereunder:-

34. To sum up, the loss of dependency on account of gratuitous services

rendered by a housewife shall be:-

- (i) Minimum salary of a Graduate where she is a Graduate.
- (ii) Minimum salary of a Matriculate where she is a Matriculate.
- (iii) Minimum salary of a non-Matriculate in other cases.
- (iv) There will be an addition of 25% in the assumed income in (i), (ii) and (iii) where the age of the homemaker is upto 40 years; the increase will be restricted to 15% where her age is above 40 years but less than 50 years; there will not be any addition in the assumed salary where the age is more than 50 years.
- (v) When the deceased home maker is above 55 years but less than 60 years; there will be deduction of 25%; and when the deceased home maker is above 60 years there will be deduction of 50% in the assumed income as the services rendered decrease substantially. Normally, the value of gratuitous services rendered will be NIL (unless there is evidence to the contrary) when the home maker is above 65 years.
- (vi) If a housewife dies issueless, the contribution towards the gratuitous services is much less, as there are greater chances of the husband's re-marriage. In such cases, the loss of dependency shall be 50% of the income as per the qualification stated in (i), (ii) and (iii) above and addition and deduction thereon as per (iv) and (v) above.
- (vii) There shall not be any deduction towards the personal and living expenses.
- (viii) As an attempt has been made to compensate the loss of dependency, only a notional sum which may be upto Rs. 25,000/- (on present scale of the money value) towards loss of love and affection and Rs. 10,000/- towards loss of consortium, if the husband is alive, may be awarded.
- (ix) Since a homemaker is not working and thus not earning, no amount should be awarded towards loss of estate.

9. An Appeal being SLP (C) No. 19711/2012 filed against the above referred judgment titled ICICI Lombard General Insurance Company

Limited v. Shiv Kumar & Ors., was dismissed by the Supreme Court by an order dated 24.07.2012.

10. The minimum wages of a non Matriculate at the time of the accident were Rs. 5850/-.

11. The loss gratuitous services rendered by her as a housewife, would come to

Rs. 14,04,000/- (5850/- + 25% x 12 x 16).

12. Thus, the compensation of Rs. 13,31,000/- awarded in favour of the Respondents (the Claimants) cannot be said to be exorbitant and excessive.

13. The Appeal is devoid of any merit; the same is accordingly dismissed.

14. The statutory deposit of Rs. 25,000/- be refunded to the Appellant Insurance Company. Pending Applications also stand disposed of.