

(2014) 01 DEL CK 0296
In the Delhi High Court
Case No : Mac. App. 1249 of 2012

The New India Assurance Co. Ltd.

APPELLANT

Vs

Ashok Kumar and Others

RESPONDENT

Date of Decision : 21-01-2014

Acts Referred:

Citation : (2014) 01 DEL CK 0296

Hon'ble Judges : Suresh Kait, J

Bench : Single Bench

Advocate : Niraj Singh, for the Appellant; Sunil Kumar Verma, for R1 and R2, for the Respondent

Final Decision : Dismissed

Judgement

Suresh Kait, J.—Instant appeal has been preferred against the impugned award dated 25.09.2012, whereby Id. Tribunal has awarded compensation for an amount of Rs. 29,28,000/- with interest @ 9% per annum from the date of filing of the claim petition till deposit of the amount. Id. Counsel appearing on behalf of the appellant has argued the instant appeal on two grounds, firstly, the claimants have failed to prove the salary of the deceased, despite, Id. Tribunal has wrongly assessed his salary as Rs. 20,000/- per month.

2. The second ground argued by counsel for the appellant is that the deceased was not in a permanent job, despite, 30% addition towards future prospects is contrary to decision of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, which has been further affirmed by the Full Bench of the Apex Court in the case of Reshma Kumari and Others Vs. Madan Mohan and Another,

3. Id. Counsel submitted that the Id. Tribunal in Para 57 of the impugned award has specifically recorded that the deceased was not employed anywhere at the time of accident. The claimants have examined PW2, Sunil Kumar Singh, who deposed that deceased was undergoing training in Air Deccan, but no proof of

the same has been placed on record.

4. Moreover, it is on record that the claimants have not proved the salary slip of PW-2. Even the original of the same was not brought to the court. No witness was examined from Kingfisher Airlines to show that PW2 was earning Rs. 34,000/- per month. Thus, the claimants have failed to prove that the deceased was employed at the time of accident. In that eventuality, learned Tribunal ought to have assessed the salary of the deceased as per the Minimum Wages Act, 1948.

5. On the other hand, Id. Counsel appearing on behalf of the respondents/claimants submitted that claimants have proved that the deceased was a qualified diploma holder in Aeronautical Engineering as Ex. PW1/4. PW2, Sunil Kumar Singh, having the same qualifications was working with Kingfisher Airlines on completion of the probation period and drawing salary of Rs. 34,000/- per month.

6. Id. Counsel further submitted that on the date of accident, deceased was going to attend an interview in Jet Airways and had he not been met with the accident, there were fair chances of his getting the job and earning monthly salary of Rs. 34,000/- or he would have received better job opportunities and emoluments.

7. The respondent No. 1/claimant in his affidavit has stated that deceased was an Aircraft Engineer and was going for an interview on the date of accident. His colleagues, having the same qualifications were employed with Jet Airways and drawing salary of Rs. 34,000/- per month. There was a possibility that the deceased would have earned the same income, out of the same employment.

8. It is not in dispute that deceased was a qualified AME Diploma Holder, approved by the Director General, Civil Aviation, Govt. of India. The deceased was undergoing training with Air Deccan.

9. At present, value of the money has been decreased drastically. With the qualification as the deceased was having, certainly he would have got an employment having the salaries of more than Rs. 20,000/- per month. Therefore, after considering all the facts, the learned Tribunal has rightly assessed the salary of the deceased as Rs. 20,000/- per month.

10. Keeping in view the dictum of the Supreme Court in the case of Rajesh and Others Vs. Rajbir Singh and Others, this Court is not inclined to interfere with the aspect of future prospects.

11. In view of above discussion, I do not find any merit in the instant appeal and the same is accordingly dismissed.

12. I note, vide order dated 11.12.2012, 50% of the award amount was directed to be released in favour of the respondents/claimants. Therefore, the balance compensation amount be released in favour of the respondents/claimants with

interest accrued thereon. The statutory amount be released in favour of the appellant.

CM. NO. 20581/2012

With the dismissal of this appeal, instant application has become infructuous and dismissed as such.