

(2012) 02 DEL CK 0046
In the Delhi High Court
Case No : MAC. APP. No. 86 of 2010

The New India Assurance Co. Ltd.

APPELLANT

Vs

Baleshwar and Others

RESPONDENT

Date of Decision : 03-02-2012

Acts Referred:

Citation : (2012) 02 DEL CK 0046

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

Bench : Single Bench

Advocate : D.D. Singh, for the Appellant; Anshuman Bal, Advocate for Respondents No. 3 to 5, for the Respondent

Final Decision : Allowed

Judgement

G.P. Mittal, J.—The Appellant New India Assurance Co. Ltd. seeks reduction of compensation of Rs.7,71,254/- awarded for the death of Smt. Bano.

2. The ground of challenge is confined with regard to the deduction towards the personal living expenses and award of Rs.50,000/- towards love and affection. It is urged that in para 30 of the impugned judgment, The Trial Court held that where the number of dependents are two to three, 1/3rd of the deceased income is to be deducted towards the personal and living expenses. It is urged that while making the actual calculations, the Claims Tribunal faltered and deducted 1/4th towards the personal living expenses instead of 1/3rd. It is submitted that the compensation towards loss of love and affection is normally awarded upto Rs.25,000/-. Reliance is placed on Radhika Gupta & Others v. Oriental Insurance Co. Ltd., 2010 ACJ 758.

3. The Appeal is bound to succeed on both the grounds. It is not in dispute that the number of dependents were three and thus 1/3rd of the deceased's income was required to be deducted towards the personal and living expenses to compute the loss of dependency. On deducting one-third, the loss of dependency comes to Rs.6,14,448/- (54216 -1/3 X 17). The compensation awarded towards

loss of love and affection is reduced to Rs.25,000/-.

4. In view of the above, the overall compensation is computed as under:

S.No.

Compensation Head

Awarded by the Claims Tribunal

Awarded by the High Court

1.

Loss of Dependency

6,91,254/-

6,14,448

2.

Loss of Love & Affection

50,000/-

25,000/-

3.

Loss of Estate

10,000/-

10,000/-

4.

Funeral Expenses

10,000/-

10,000/-

5.

Loss of Consortium

10,000/-

10,000/-

Total

7,71,254/-

6,69,448/-

5. The compensation is reduced to Rs.6,69,448/-from Rs.7,71,254/-

6. The excess amount along with interest, if any, earned during the pendency of the Appeal shall be returned to the Appellant New India Assurance Co. Ltd. Rest of the amount shall be released/held in Fixed Deposit in terms of the Tribunal order with UCO Bank, Delhi High Court Branch.
7. The statutory amount of Rs.25,000/- shall be returned to the Appellant.
8. The Appeal is allowed in above terms.
9. No costs.