
(2009) 11 DEL CK 0203

In the Delhi High Court

Case No : MAC. APP. No. 378 of 2007

The New India Assurance Co. Ltd.

APPELLANT

Vs

Sunita and Others

RESPONDENT

Date of Decision : 24-11-2009

Acts Referred:

Citation : (2009) 11 DEL CK 0203

Hon'ble Judges : J.R. Midha, J

Bench : Single Bench

Advocate : Ramesh Kumar, for Jose Chiramel, for the Appellant; N.K. Jha, for R-1 to 3, for the Respondent

Final Decision : Dismissed

Judgement

J.R. Midha, J.—The appellant has challenged the award of the learned Tribunal whereby compensation of Rs. 12,00,000/- has been awarded to claimants/respondents No. 1 to 4.

2. The accident dated 13th July, 2005 resulted in the death of Raj Pal Singh. The deceased was aged 35 years, 8 months at the time of the accident and was working as L.D.C. in Transport Department earning Rs. 8,000/- per month. The deceased was survived by his widow and two children who filed the claim petition before the learned Tribunal.

3. The learned Tribunal took the income of the deceased as Rs. 8,000/- per month, deducted Rs. 2,000/- towards the personal expenses and applied the multiplier of 16 to compute the loss of dependency at Rs. 11,52,000/-. Rs. 18,000/- has been awarded towards loss of consortium, Rs. 25,000/- has been awarded towards pain and suffering and Rs. 5,000/- has been awarded towards funeral expenses. The total compensation awarded is Rs. 12,00,000/-.

4. The learned Counsel for the appellant submits that the deduction towards the personal expenses should be reduced and the compensation towards the loss of consortium should be reduced from Rs. 18,000/- to Rs. 10,000/-. The learned

Counsel further submits that no compensation can be awarded for pain and suffering in death cases and, therefore, the compensation of Rs. 25,000/- awarded by the learned Tribunal towards the pain and suffering should be set aside.

5. There is no infirmity in the deduction of Rs. 2,000/- towards the personal expenses of the deceased. The learned Tribunal has awarded Rs. 25,000/- towards pain and suffering whereas no compensation has been awarded for loss of love and affection and loss of estate. The compensation of Rs. 25,000/- awarded for pain and suffering is treated to be towards loss of love and affection and loss of estate.

6. The amount awarded by the learned Tribunal is on a lower side. As per the recent judgment of the Hon"ble Supreme Court in the case of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , the claimants are also entitled to addition of 50% of the income of the deceased towards the future prospects. However, the learned Tribunal has not granted the future prospects to the claimants. If the future prospects are taken into consideration, the award would warrant enhancement but since there is no cross-objection by the claimants, no order is being passed in this regard.

7. For all the aforesaid reasons, the appeal is dismissed.

8. The appellant has deposited the entire award amount with the learned Tribunal in terms of the order dated 21st April, 2009 out of which some amount has been released to the claimants and the remaining amount is kept in fixed deposit which is retained by the learned Tribunal.

9. The learned Tribunal is directed to release the fixed deposit receipt to the claimants in terms of the award.

10. Copy of this order be given "Dasti" to learned Counsel for both the parties under signature of Court Master.