(2012) 02 DEL CK 0482

In the Delhi High Court

Case No : MAC. App. 199 of 2011 and MAC. App. 383 of 2011

United India Insurance Co. Ltd. APPELLANT

Vs

Ramvati Upadhyay and Others
 Ramavati Upadhyay and Others Vs United India Insurance Co. Ltd. RESPONDENT

Date of Decision : 21-02-2012

Acts Referred:

Citation : (2012) 4 TAC 41

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

Bench : Single Bench

Advocate : Pankaj Seth in MAC. app. 199/2011 and Mr. Nitinyajen with Ms. Sushma in MAC. app. 383/2011, for the Appellant; Nitinyajen with Ms. Sushma Advocates for Respondents No. 1 to 5 in MAC. App. 199/2011 and Mr. Pankaj Seth, Advocate in MAC. App. 383/2011, for the Respondent

Final Decision : Dismissed

Judgement

G.P. Mittal, J.—These are two Cross-Appeals. MAC APP No. 199/2011 has been filed by the Appellant United India Insurance Co. Ltd. for reduction of compensation of Rs. 41,53,800/- awarded for the death of Sh. R.K. Upadhyay who was aged 57 years and 04 months at the time of his death in an accident which occurred on 24.03.2006.

2. The Cross-Objections which were registered as MAC App. No. 383/2011 have been preferred by the Respondents 1 to 5 on the ground that the compensation awarded is meager. For the sake of convenience, the Appellant United India Insurance Co. Ltd. shall be referred to as the Insurer and the Cross-Objectionists shall be referred to as the Claimants.

3. During inquiry before the Claims Tribunal, it was established that the deceased R.K. Upadhyay was a Mechanical Engineer and was working as an Assistant General Manager with Engineers India Ltd., a public sector undertaking of the Government of India. The Claims Tribunal found that the accident was caused on

account of rash and negligent driving of bus No. DL-1PB-5979 insured by the Appellant; deducted an amount of Rs. 1,35,219/- towards the liability of Income Tax; deducted 1/3rd towards personal and living expenses as the number of dependents were two i.e. the deceased''s wife and the deceased''s mother; applied multiplier of 9 suitable to the deceased''s age to compute the loss of dependency as Rs. 41,18,814/- .

4. It is urged by the learned counsel for the Appellant that the deceased was to retire from his service with Engineers India Ltd. just in a period of 02 years and 08 months. The Claims Tribunal acted illegally in applying the multiplier of 9. It is contended that whenever multiplicand is high, a lower multiplier can be applied. Reliance is placed in United India Insurance Co. Ltd. Vs. Patricia Jean Mahajan and Others Etc. Etc., .

5. On the other hand, it is submitted by the learned counsel for the Claimants that since the number of dependents were five, the Claims Tribunal ought to have deducted 1/4th of the deceased''s income towards his personal and living expenses instead of 1/3rd. It is urged that as far as choice of multiplier in case of a salaried employee is concerned, the case is covered by Sri. K.R. Madhusudhan and Others Vs. The Administrative Officer and Another, .

6. I have carefully gone through the impugned judgment and have perused the record. In United India Insurance Co. Ltd. etc. v. Patricia Jean Mahajan & Ors. (supra) related to an accident which occurred in the year 1995, the multiplier of 7 was applied to arrive at the compensation of Rs. 1.19 Crores and interest @ 12% per annum was awarded by the Tribunal. The learned Single Judge of this Court enhanced the multiplier to 10 and held that at current exchange rate for dollar, the compensation would be Rs. 10.38 Crores. The multiplier was further increased to 13 by the Division Bench, raising the amount of compensation to Rs. 16.12 Crores. It was in those circumstances that the multiplier as applied by the learned Single Judge was approved by the Supreme Court in the SLP. Herein an accident has occurred 11 years after the accident in United India Insurance Co. Ltd. etc. v. Patricia Jean Mahajan & Ors. (supra), and a compensation of Rs. Rs. 41,53,800/- has been awarded. The case is squarely covered by the judgment of the Supreme Court in K.R. Madhusudhan & Ors. v. Administrative Officer & Anr. (supra) wherein it was held that the High Court was wrong in introducing the concept of split multiplier. The multiplier of 11 for the age between 51 to 55 years was accepted. Thus, no fault can be found in the selection of multiplier of 9 at the age of 57 years 04 months.

7. As far as deduction towards the personal and living expenses is concerned, it was proved on record that one of the deceased''s daughter was already married. The other one was M.Sc. in Biotech and was gainfully employed. Similarly, the son was a Computer Engineer and was getting a salary of Rs. 85,000/- per month. He admitted that he was an Engineer since the year 2000 and was not dependent on his father. In the circumstances, the Claims Tribunal rightly deducted 1/3rd of the deceased''s income towards the personal and living

expenses.

8. The compensation of Rs. 41,53,800/- awarded by the Claims Tribunal is just and reasonable.

9. The Appeals are devoid of any merit; the same are accordingly dismissed.

10. The amount deposited shall be released to the Claimants in terms of the Tribunal''s order.

