
(2018) 05 DEL CK 0430

In the Delhi High Court

Case No : MAC.APP. 722 OF 2015 and C.M. Appl. 19968 OF 2015

UNITED INDIA INSURANCE CO LTD

APPELLANT

Vs

SULOCHANA KHILAR & ORS

RESPONDENT

Date of Decision : 29-05-2018

Acts Referred:

Citation : (2018) 05 DEL CK 0430

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

Bench : Single Bench

Advocate : A.K. De, Ananya De, Rajesh Dwivedi, S.N. Parashar

Final Decision : Dismissed

Judgement

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.31,05,496/- has been awarded to respondents No.1 to

4.

2. On 12th April, 2013, Lal Mohan Khilar was waiting for staff bus on the footpath at Delhi Milk Scheme booth in front of Nirman Bhawan when he

was hit by DTC bus bearing No.DL-1PC-8293 which resulted in fatal injuries. The deceased was survived by his widow, son and two daughters who

claimed compensation. The deceased was aged 58 years 3 months and was working as Sub-Inspector Executive with CISF and was getting a salary

of Rs.39,680/- per month.

3. The Claims Tribunal took the income of the deceased as Rs.4,16,013 per annum after deduction of Income Tax, added 15% towards future

prospects, deducted 1/3rd towards the personal expenses and applied the multiplier of 9 to compute the loss of dependency as Rs.28,70,496/-. The

Claims Tribunal awarded Rs.1 lakh towards loss of consortium, Rs.1 lakh towards

loss of love and affection, Rs.25,000/- towards funeral expenses and Rs.10,000/- towards loss of estate. The total compensation awarded is Rs.31,05,496/-.

4. Learned counsel for the appellant urged at the time of hearing that the addition of 15% towards future prospects was not warranted as the deceased was aged 58 years 3 months and was at the verge of retirement.

5. Vide order dated 17th August, 2017, CISF was directed to confirm the salary structure of the deceased at the time of the retirement, if he had not

died in the accident. In compliance of the aforesaid order, the officer from CISF appeared before this Court on 19th September, 2017 and produced

the certificate giving the salary structure of the deceased which he would have drawn at the time of the retirement on 31st January, 2015, if he had

not died in the accident. As per the said certificate, the deceased would have got salary of Rs.50,324/- per month if he had not died in the accident. In

that view of this matter, this Court is of the view that the addition of 15% towards future prospects awarded by the Claims Tribunal does not warrant

any interference.

6. Learned counsel for the appellant submits that the compensation awarded under the head of loss of love and affection is no more permissible head

and the compensation for loss of consortium, funeral expenses and loss of estate be reduced in terms of the principles laid down in National Insurance

Co. Limited vs. Pranay Sethi, 2017 SCC Online SC 1270.

7. There is merit in the contention of learned counsel for the appellant.

However, the reduction in the award amount is not warranted considering that the future prospects taken by the Claims Tribunal are on lower side

whereas CISF has certified that deceased would have earned Rs.50,324/- per month, if he had not died in the accident.

8. The appeal is dismissed. Pending application is disposed of.

9. The appellant has deposited Rs.37,51,780/- out of which Rs.18,75,980/- has already been released to respondents No.1 to 4 and the balance amount

is lying with the Registrar General of this Court.

10. Respondent No.1 is present in Court and has produced the passbook of her savings bank account as well as that of the savings bank accounts of

respondents No.2 to 4, particulars of which are given hereinbelow: -

(i) Sulochana Khilari (respondent No.1)

S.B. A/c No.15530110103630 UCO Bank, Delhi High Court Branch, IFSC: UCBA0001553.

(ii) Dipak Khilar (respondent No.2)

S.B. A/c No.30927637115

State Bank of India, Ramnagar Branch, IFSC: SBIN0009951.

(iii) Nirmala Khilar (respondent No.3)

S.B. A/c No.35786972722 State Bank of India, Barsahi Branch, IFSC: SBIN0013577.

(iv) Usarani Khilar (respondent No.4)

S.B. A/c No.20212126548 State Bank of India, Barsahi Branch, IFSC: SBIN0013577.

11. The Registrar General is directed to disburse the balance amount by directing UCO Bank, Delhi High Court Branch as under:

(i) Rs.15 lakh be kept in 100 FDRs of Rs.15,000/- each, in the name of respondent No.1 for the periods 1 month to 100 months, respectively, with cumulative interest.

(ii) The balance amount after keeping Rs.15,00,000/- in FDRs be released to respondents No.1 to 4 in equal shares by transferring the same to their savings bank accounts mentioned above.

12. All the original FDRs shall be retained by UCO Bank, Delhi High Court Branch. However, the statement containing FDR number, FDR amount, date of maturity and the maturity amount be furnished to the respondent No.1.

13. The maturity amounts of the aforesaid FDRs along with interest shall be transferred to the individual savings bank account of respondent No.1 mentioned above.

14. No loan or advance or pre-mature discharge shall be permitted without the permission of this Court.

15. The statutory amount be refunded back to the appellant.

16. List for reporting compliance on 19th July, 2018.

17. Copy of this judgment be given dasti to counsels for the parties under signatures of the Court Master.