(2013) 03 DEL CK 0045

In the Delhi High Court

Case No : Mac. A. 677/2012

Universal Sompo General Insurance Company Ltd. APPELLANT

Vs

Rajkumari and Others RESPONDENT

Date of Decision : 01-03-2013

Acts Referred:

Citation : (2013) 03 DEL CK 0045

Hon'ble Judges : Suresh Kait, J

Bench : Single Bench

Judgement

Suresh Kait, J.—The present appeal has been preferred against the award dated 17.04.2012 passed by the ld. Tribunal whereby the appellant was held liable to pay the compensation amount in favour of the respondents/claimants. Ld. Counsel appearing on behalf of the appellant has argued only on one ground that the ld. Tribunal has granted 50% of increase in future prospectus, whereas, as per the settled law in Santosh Devi v. National Insurance Co. Ltd. & Ors., where a person is self-employed or is engaged on fixed wages will get 30% increase in his total income.

2. Ld. Counsel appearing on behalf of the respondents/claimants has also joined hands with the counsel for the appellant and submitted that he has rightly referred the settled legal position.

3. I have heard ld. Counsels for both the parties.

4. The salary of the deceased has been considered as Rs. 5,278/- minimum wages for unskilled worker applicable at the time of the accident. Therefore, by giving 30% increase of Rs. 5278/- it would be Rs. 1583.40/-. Accordingly, the loss of dependency in the present case would be Rs. 6,861.40/- (Rs. 5,278 + Rs. 1,583.40) i.e. 30% of Rs. 5,278/-.

5. As per the case of Sarla Verma v. DTC 2009 AIR SC 3104, ? is to be deducted towards personal expenses. Thus, the monthly loss of dependency would be Rs.

5,146.5/- (Rs. 6,861.40 ? Rs. 1,715.35). Applying the multiplier of 17, the total amount towards loss of dependency would be Rs. 10,49,794.20/ -(Rs. 5,146.05 x 12 x 17).

6. Besides the above, respondents/claimants are also entitled to non-pecuniary damages under the following heads:

Thus the total compensation would be Rs. 11,02,294.20/- (Being rounded up to Rs. 11,02,300/-.)

7. While applying 30% increase in income, the total compensation amount is reduced from Rs. 12,63,900 to Rs. 11,02,300/-. Thus, the total compensation amount comes to Rs. 11,02,300/-.

8. Accordingly, award is modified while directing the appellant/Insurance Company, Universal Sompo General Insurance Co. Ltd. to pay a sum of Rs. 11,02,300/- in favour of respondents/claimants along with interest @ 7.5% per annum from the date of filing of the petition till 23.08.2012 on which date the amount has been realized.

9. Accordingly, respondents/claimants are entitled for the compensation in the following manner:-

(To be apportioned equally. 50% of the amount of each petitioner be kept in FDRs for 3 years).

10. In addition to the above, the respondents/claimants are entitled to receive the proportionate interest accrued on the deposited amount, i.e., from 23.08.2012 till the date of releasing the award amount.

11. Pursuant to order dated 04.07.2012, appellant had deposited the award amount along with interest in UCO Bank, Delhi High Court Branch, New Delhi in the name of claimants. Therefore, the Branch Manager, UCO Bank is directed to release the proportionate amount in favour of the claimants/respondents within four weeks as per the terms and conditions of the award dated 17.04.2012 passed by the ld. Tribunal, on taking steps by the claimants.

12. Since the compensation amount has been reduced by this court from Rs. 12,63,900 to Rs. 11,02,300/-, the excess amount of Rs. 1,61,600/- (Rs. 12,63,900-Rs. 11,02,300/-) with proportionate interest accrued thereon shall be released in favour of the appellant in addition to Rs. 25,000/- of statutory amount. Accordingly, the impugned award dated 17.04.2012 is modified and the instant appeal stands disposed of on the above terms.

CM. No. 10998/2012 (Stay)

In view of the above instant application has become infructuous and disposed of as such.