(2013) 09 DEL CK 0526

In the Delhi High Court

Case No : MAC. App. 958 of 2012

Urmila and Others APPELLANT

Vs

United India Insurance Co. Ltd. and Others RESPONDENT

Date of Decision : 16-09-2013

Acts Referred:

Citation : (2013) 09 DEL CK 0526

Hon'ble Judges : Suresh Kait, J

Bench : Single Bench

Advocate : Sanjiv Gupta, for the Appellant; Sankar N. Sinha, Advocate for Respondent No. 1, Mr. Mannu Mohan Bansal, Advocate for Respondent No. 2 and Ms. Tania Ahlawat for Ms. Avnish Ahlawat, Advocate for Respondent No. 3/DTC, for the Respondent

Final Decision : Allowed

Judgement

Suresh Kait, J.—The present appeal is preferred for enhancement of the award dated 15.05.2012, whereby the learned Tribunal has awarded a total compensation of Rs. 10,05,000/- with interest at the rate of 9% per annum in favour of the appellants/claimants. Learned counsel appearing on behalf of the appellants has argued that though the learned Tribunal has considered salary of the deceased as Rs. 10,000/- per month, however, failed to grant any compensation towards future prospects as the age of the deceased was 20 years at the time of accident, i.e., 08.08.2010. Further submitted that the compensation granted towards non-pecuniary heads, i.e., Rs. 25,000/- for loss of love and affection and Rs. 10,000/- for funeral expenses is also on a lower side.

2. To support his arguments, learned counsel, while relying upon the case of Rajesh and Others Vs. Rajbir Singh and Others, decided by the Full Bench of the Supreme Court, has submitted that in the present case, the deceased was only 20 years of age, therefore, in view of dictum of Rajesh (supra), the learned Tribunal ought to have granted 50% towards future prospects beside compensation of Rs. 1,00,000/- for loss of love and affection and Rs. 25,000/-

towards funeral expenses.

3. On the other hand, learned counsel appearing on behalf of the respondent No. 1/Insurance Company has submitted that since the appellants/claimants have failed to establish that the deceased was in a permanent job, therefore, keeping in view the dictum of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , the learned Tribunal has rightly not granted any compensation towards future prospects.

4. Learned counsel further submitted that there is no discrepancy in awarding compensation of Rs. 25,000/- for loss of love and affection and Rs. 10,000/- for funeral expenses.

5. I note, appellant No. 1 Smt. Urmila, mother of the deceased, who appeared as PW1 has proved the post-mortem report as Ex. PW1/1, death certificate as Ex. PW1/2, birth certificate as Ex. PW1/3, certificate of the employer mark ''A'', Election I-card as Ex. PW1/4 and 5 and ration card as Ex. PW1/6.

6. Moreover, appellants/claimants have also examined one Chaman Lal as PW2, who deposed that he is the partner of the workshop ''Chaman and Tita''. He brought the original register showing attendance and cash payment to the deceased and stated that deceased was a car mechanic and used to get salary of Rs. 10,000/- per month in cash. He also placed on record the photocopy of the register Ex. PW2/a (colly).

7. In view of the facts noted in foregoing Paras, it is proved that the appellants/ claimants have proved the salary by producing the original documents pertaining to the salary received by the deceased. Therefore, the learned Tribunal has rightly considered the salary of the deceased as Rs. 10,000/- per month.

8. Keeping in view the dictum of Rajesh (supra), the appellant/claimants are entitled for 50% towards future prospects, Rs. 1,00,000/- for loss of love and affection and Rs. 25,000/- for funeral expenses. Hence, I order accordingly.

9. Consequently, after taking 50% towards future prospects, the compensation on account of loss of dependency comes to Rs. 14,40,000/- (Rs. 7500 X 12 X 16).

10. In view of the above, the compensation amount come as under:-

11. Resultantly, the compensation is enhanced to Rs. 5,70,000/-(Rs. 15,75,000-Rs. 10,05,000), with interest @ 9% per annum from the date of filing the petition till the date of realization.

12. Respondent No. 1/Insurance Company is directed to deposit the enhanced compensation amount along with up-to-date interest before the Registrar General of this Court within five weeks from today, failing which, appellants/ claimants shall be entitled for penal interest @ 12% per annum on account of delayed payment.

13. On deposit, the Registrar General is directed to release the enhanced amount

in favour of the appellants/claimants proportionately in terms of order dated 15.05.2012.

14. The instant appeal is allowed on the above terms. There is no order as to costs.

