

(2012) 09 DEL CK 0196
In the Delhi High Court
Case No : Mac. App. 54 of 2012

Yachna Khare and Others

APPELLANT

Vs

Oriental Insurance Co. Ltd. and Others

RESPONDENT

Date of Decision : 03-09-2012

Acts Referred:

Citation : (2012) 09 DEL CK 0196

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

Bench : Single Bench

Advocate : Sanjeev Srivastava, for the Appellant; A.K. Soni, Advocate for the Respondent No. 1 Insurance Company, for the Respondent

Final Decision : Allowed

Judgement

G.P. Mittal, J.—The Appeal is for enhancement of compensation of Rs. 15,97,000/- awarded in favour of the Appellants by the Motor Accident Claims Tribunal(the Claims Tribunal) for the death of Pankaj Batish who died in a motor vehicle accident which occurred on 03.10.2008. The only ground of challenge is that the deceased's future prospects were not taken into consideration.

2. On 27.04.2012, it was submitted by the learned counsel for the Respondent Insurance Company that perhaps some amount towards bonus was included in the salary certificate Ex.PW1/6. By an order dated 27.04.2012, this Court directed the Appellant to produce a witness from the deceased's employer to seek clarification about the deceased's income.

3. Statement of Anil Kumar Gautam, Senior Manager(Personnel) was recorded before the Registrar on 20.07.2012. It is established that the deceased joined M/s Bhushan Power and Steels Ltd. in the year 2002. His salary of Rs. 5,000/- in April, 2006 (Ex.AW1/6) increased to Rs. 10,000/- at the time of his death in this accident in October, 2008. The deceased was aged 28 years on the date of the accident. The Appellants would be entitled to an addition of 50% in the income to compute the loss of dependency. A sum of Rs. 1,740/- which was reflected in the

salary certificate Ex.PW1/6 was annual bonus which shall be included in the annual income as against the monthly income taken by the Claims Tribunal. The loss of dependency would thus come to Rs. 20,59,720/- (Rs. 10,000/- + 50% x 12 + 1740/- x 2/3 x 17).

4. In addition, the Appellants would be entitled to a sum of Rs. 25,000/- towards loss of love and affection and Rs. 10,000/- each towards loss of consortium, loss to estate and funeral expenses.

5. The overall compensation thus comes to Rs. 21,14,720/-.

6. The compensation is thus enhanced by Rs. 4,68,080/- which shall carry interest @ 7.5% per annum from the date of the filing of the Petition till its payment.

7. Twenty five percent each of the enhanced compensation shall be payable to the Appellants No. 2 and 3. Rest 50% of the enhanced amount shall be payable to the First Appellant.

8. Eighty percent of the amount payable to the First Appellant shall be held in fixed deposit for a period of two years, four years, six years, eight years and ten years. Rest shall be released to her on deposit. 50% of the amount payable to the Appellants No. 2 and 3 shall be held in fixed deposit for a period of two years. Rest shall be released to them on deposit.

9. The Respondent No. 1 Insurance Company is directed to deposit the enhanced compensation in the name of the Appellants in UCO Bank, Delhi High Court Branch within six weeks.

10. The Appeal is allowed in above terms. Pending Applications stand disposed of.