

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Hearing & Decision: 31st October, 2011

+ **MAC APP. 929/2011**

ORIENTAL INSURANCE COMPANY LTD. Appellant

Through: Mr. J.P.N. Shahi, Advocate.

Versus

NIRMALA SHARMA & ORS. Respondents

Through: Nemo.

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

1. Whether reporters of local papers may be allowed to see the Order?
2. To be referred to the Reporter or not?
3. Whether the Order should be reported in the Digest?

J U D G M E N T

G. P. MITTAL, J. (ORAL)

CM APPL. 19401/2011 (exemption) in MAC APP. 929/2011

Exemption allowed subject to all just exceptions.

Application stands disposed of.

MAC APP. 929/2011

1. This appeal is preferred by the Oriental Insurance Company Ltd. challenging the award dated 02.08.2011 passed by the Motor Accident Claim Tribunal (the Tribunal) whereby the claimants (Respondent Nos.1 to 4 herein) were awarded compensation of ₹ 19,57,600/-. The income of the deceased and the multiplier has not been disputed by the Appellant. The only challenge to the amount of compensation is that the Tribunal awarded ₹ 25,000/- each to the four claimants for loss of love and affection. The other grievance is that an interest @ 9% per annum has been awarded though it should have been only 7.5 % per annum.
2. The trend of Higher Courts has been to award compensation towards loss of love and affection jointly to all the claimants. However, in this case each of the

Claimants was awarded compensation on account of loss of love and affection at the rate of ₹ 25,000/- each, totaling ₹ 1,00,000/-.

3. In my view, a consolidated amount towards loss of love and affection was appropriate to be awarded to the Claimants (Respondents No.1 to 4). However, there are judgments of this Court as well as other High Courts where compensation towards loss of love and affection has been granted to each of the Claimants/legal heirs of the deceased.
4. In *Bedo Devi & Ors. v. Jagat Singh & Ors.*, 2010 ACJ 2249, this Court awarded a sum of ₹ 50,000/- i.e. ₹ 25,000/- each to the mother and the daughter towards loss of love and affection. In *Meera & Anr. v. Sarabjeet Singh & Anr.*, 2010 ACJ 1489, this Court granted compensation amounting to ₹ 50,000/- for loss of love and affection.
5. The other grievance of the Appellant is that the interest @ 9% per annum granted by the Tribunal was on the higher side. After *Sarla Verma & Ors. v. Delhi Transport Corporation & Anr.*, 2009 (6) SCC 121 and even before that when the inflation was very low, the interest @ 7.5% per annum was being awarded by the Tribunals and the Superior Courts. Interest is normally awarded to meet the inflation factor. In the case of *National Insurance Company Ltd. Vs. Meghji Naran Soratiya & Ors.*, 2009 (12) SCC 796, the Supreme Court granted interest @ 9% per annum. In *Dharampal & Ors. v. U.P. State Road Transport Corporation*, AIR 2008 SC 2312, the Supreme Court held that the award of interest would normally depend upon the Bank rate prevailing at the relevant time. In the year 2001-2006, the inflation was very low. For the last couple of years, the inflation is almost in double digit. The rate of interest given by the State Bank of India on fixed deposits for a term of one year and above was 9.25% w.e.f. 30.08.2011. This has been reduced to 9% w.e.f. 20.10.2011.
6. In the latest judgment in *Municipal Corporation of Delhi v. Association of Victims of Uphaar Tragedy & Ors.*, Civil Appeal Nos. 7114-15 of 2003 decided on 13.10.2011 the Hon'ble Supreme Court, held as under:-

“(a) The compensation awarded by the High Court in the case of death is reduced from ₹ 18 lacs to ₹ 10 lacs (in the case of those aged more than 20 years) and ₹ 15 lacs to ₹ 7.5 lacs (in the case of those aged 20 years and less). The said sum is payable to legal representatives of the deceased to be determined by a brief and summary enquiry by the Registrar General (or nominee of learned Chief Justice / Acting Chief Justice of the Delhi High Court).

(b) The compensation of ₹ one lakh awarded by the High Court in the case of each of the 103 injured persons is affirmed.

(c) The interest awarded from the date of the writ petition on the aforesaid sums at the rate of 9% per annum is affirmed.”

7. In this view of the matter, the grant of interest cannot be said to be excessive. In any case, it cannot be said that the Tribunal acted illegally in awarding interest @ 9% per annum.
8. There is no ground to interfere with the order passed by the Tribunal. The appeal is without any merit and is hereby dismissed. The impugned award is confirmed.

CM APPL. 19400/2011 (stay) in MAC APP. 929/2011

8. In view of dismissal of the Appeal, this application has become infructuous and the same is accordingly dismissed.

(G.P. MITTAL)
JUDGE

OCTOBER 31, 2011

vk