

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

Date of Hearing & Decision: 15th November, 2011

+ **MAC APP. 782/2010**

ORIENTAL INSURANCE COMPANY LTD. Appellant
Through: Mr. A.K.Soni, Advocate.

Versus

PUSHPENDRA KUMAR SHARMA & ORS. Respondents
Through: Mr. S.N. Parashar Advocate for R-1 to R-4.

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)

1. The Appellant Oriental Insurance Company Limited impugns the award dated 10.08.2010 in case of deceased Smt. Rama Sharma, who was aged about 50 years and five months on the date of accident which took place on 19.01.2009. The deceased had an income of ₹ 19,866/-. A limited notice was issued to Respondents No.1 to 4 only on the aspect of deduction of income tax to arrive at the multiplicand.
2. The deceased had an annual income of ₹ 19,866/- x 12 = ₹ 2,38,392/-. If there are no savings, the liability of the tax would be as under:-

(1) Annual salary of the deceased	=	₹ 2,38,392/-
(2) Exemption in case of woman	=	₹ 1,80,000/-
(3) Taxable income	=	₹ 58,392/-
(4) Percentage of tax upto an income of ₹ 2.5 lacs	=	10%
(5) The income tax payable (in case there are no savings)	=	₹ 5,839/-

3. The Assessee is entitled to deduction of the savings under Section 80 C of the Income Tax Act.
4. As per *Sarla Verma & Ors. v. Delhi Transport Corporation & Anr.*, 2009 (6) SCC 121, it is settled that the annual income of the deceased would be “*actual salary less tax.*”
5. The salary slip placed on record discloses that the amount of ₹ 1220/- was being deducted from the salary towards payment of GPF, State insurance and RPMF. If this amount is deducted from the taxable income, there would be liability of payment of income tax at the rate of ₹ 4375/- per annum only and the dependency would work out to be ₹ 20,28,156/-. The Tribunal awarded a sum of ₹ 20,66,064/- on account of loss of dependency. Since the tax was not being deducted at source by the Rajasthan Govt. deceased Smt. Rama Sharma's employer, it can be assumed that there might have been other savings under Section 80C of the Income Tax Act and in that case there would not be any change in calculation of dependency. Even if, it is assumed that there was liability of income tax at the rate of ₹ 4357/- per annum, there was not much difference in the calculation of dependency.
6. The compensation awarded by the Tribunal in my view is just and reasonable and does not call for any interference. The Appeal is accordingly dismissed and the award is confirmed. No costs.

(G.P. MITTAL)
JUDGE

NOVEMBER 15, 2011

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