

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

Date of decision: 5th October, 2012

+ **MAC.APP. 174/2012**

ICICI LOMBARD GENERAL INSURANCE COMPANY LTD

..... Appellant

Through: Ms. Suman Bagga, Adv.

versus

HEM LATA & ORS.

..... Respondents

Through: Mr. S.N. Parashar, Adv. for R-1 to R-5.

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. The Appeal is for reduction of compensation of ₹11,15,000/- awarded by the Motor Accident Claims Tribunal (the Claims Tribunal) for the death of Rajesh Kumar who died in a motor vehicle accident which occurred on 05.12.2010.
2. The only ground of challenge raised by the Appellant is that even in the absence of any evidence with regard to the deceased's future prospects it made an addition of 50%.
3. Learned counsel for the Respondents agrees that there was no evidence with regard to deceased's future prospects. He states that the Claimants were entitled to an addition of 30% towards inflation.
4. The finding on negligence is not challenged by the Appellant.

5. During enquiry before the Claims Tribunal it was claimed that the deceased was employed in Home Guard in U.P. The Claims Tribunal in the absence of any evidence took the minimum wages of an unskilled worker in U.P., as on the date of the accident. Taking ₹ 5,000/- as the minimum wages of an unskilled worker and making an addition of 30% towards inflation on the basis of *Santosh Devi v. National Insurance Company Ltd. & Ors., 2012 (4) SCALE 559*, the loss of dependency comes to ₹9,36,000/- (5,000/- + 30% x 3/4 x 12 x 16).
6. I would further make an award of ₹25,000/- towards loss of love and affection and ₹10,000/- each towards loss to estate, loss of consortium and funeral expenses, the overall compensation comes to ₹9,91,000/- as against ₹11,15,000/- awarded by the Claims Tribunal.
7. By order dated 17.02.2012, the Appellant Insurance Company was directed to deposit the awarded amount with the Registrar General within six weeks. It is stated by Ms. Suman Bagga, learned counsel for the Appellant Insurance Company that the awarded amount has not yet been deposited.
8. The awarded amount of ₹9,91,000/- along with interest @ 7.5% per annum shall be deposited with the Claims Tribunal within six weeks.
9. The compensation awarded shall be released/held in fixed deposit in favour of the Claimants in terms of the order passed by the Claims Tribunal.
10. The statutory deposit of ₹25,000/- be refunded to the Appellant Insurance Company.

11. The Appeal is allowed in above terms.
12. Pending Applications also stand disposed of.

(G.P. MITTAL)
JUDGE

OCTOBER 05, 2012
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