

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

Date of decision: 6th November, 2012

+ **MAC. APP. 468/2012**

UNITED INDIA INSURANCE COMPANY LTD. Appellant

Through: Ms. Suman Bagga, Adv.

versus

SMT. BARKHA KUMARI & ORS. Respondents

Through: Mr. Sanjeev Gupta, 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 ₹31,38,500/- awarded for the death of Sachin Kumar who died in a motor vehicle accident which occurred on 11.05.2011.
2. The finding on negligence has not been challenged by the Appellant Insurance Company. Thus, the same has attained finality.
3. During inquiry before the Claims Tribunal it was claimed that the deceased was working as a Field Officer with AP Securitas Pvt. Ltd. and was getting a salary of ₹ 16,000/- per month. During evidence, the Claimants proved a salary certificate Ex.PWE-1/9 to prove the fact that the deceased was getting a salary of ₹13,000/- per month, apart from other documents. The deceased's salary was also verified in the Accident Information Report by the investigating officer.

4. The Claims Tribunal thus, took the deceased's income to be ₹13,000/- per month, added 50% towards future prospects, deducted one-fourth towards personal and living expenses as the number of dependents were four, applied the multiplier of 17 (as per the deceased's age) to compute the loss of dependency as ₹29,83,500/-.

5. The compensation awarded is tabulated hereunder:-

Sl.No.	Compensation under various heads	Awarded by the Claims Tribunal
1.	Loss of Dependency	₹29,83, 500/-
2.	Loss of Love and Affection	₹ 1,25,000/-
3.	Funeral Expenses	₹ 10,000/-
4.	Loss to Estate	₹ 10,000/-
5.	Loss of Consortium	₹ 10,000/-
	Total	₹ 31,38,500/-

6. It is urged by the learned counsel for the Appellant that there was no evidence that the deceased had future prospects. An addition of 50% towards future prospects was against the judgment of the Supreme Court in *Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr.*, (2009) 6 SCC 121 and *Bijoy Kumar Dugar v. Bidyadhar Dutta & Ors.*, AIR 2006 SC 1255.

7. It is urged that the Claims Tribunal awarded a sum of ₹1,25,000/- towards loss of love and affection, which is exorbitant and excessive.

8. I have before me the Trial Court record. It is established that the deceased was working as a Field Officer with AP Securitas Pvt. Ltd. No

evidence was produced by the Claimants to prove that the deceased had better future prospects with AP Securitas Pvt. Ltd. The length of the service with the organization or the fact that he was in regular and permanent employment was also not proved. In view of this, the Claims Tribunal erred in making an addition of 50% towards future prospects.

9. On the other hand, the Claimants were entitled to an addition of only 30% towards inflation in view of the report of the Supreme Court in *Santosh Devi v. National Insurance Company Ltd. & Ors.*, 2012 (4) SCALE 559.
10. The loss of dependency thus comes to ₹25,85,700/- (13,000/- + 30% x $\frac{3}{4}$ x 12 x 17).
11. The Claims Tribunal awarded a sum of ₹1,25,000/- towards loss of love and affection. Loss of love and affection can never be measured in terms of money. Thus, uniformity has to be adopted by the Courts while granting non-pecuniary damages. The Supreme Court in *Sunil Sharma v. Bachitar Singh* (2011) 11 SCC 425 and in *Baby Radhika Gupta v. Oriental Insurance Company Limited* (2009) 17 SCC 627 granted only ₹ 25,000/- (in total to all the claimants) under the head of loss of love and affection. Thus, I would reduce the compensation under this head to ₹ 25,000/- only.
12. The compensation awarded is re-computed as under:-

Sl.No.	Compensation under various heads	Awarded by this Court
1.	Loss of Dependency	₹25,85,700/-
2.	Loss of Love and Affection	₹ 25,000/-

3.	Funeral Expenses	₹ 10,000/-
4.	Loss to Estate	₹ 10,000/-
5.	Loss of Consortium	₹ 10,000/-
	Total	₹ 26,40,700/-

13. The compensation is thus reduced from ₹31,38,500/- to ₹26,40,700/- which shall carry interest @ 7.5% per annum from the date of filing of the Petition till its payment.
14. The excess compensation of ₹4,97,800/- along with proportionate interest and the interest accrued, if any, during the pendency of the Appellant shall be refunded to the Appellant Insurance Company.
15. The compensation awarded in favour of the Claimants shall be disbursed/held in fixed deposit in the proportion and in the manner as directed by the Claims Tribunal.
16. The Appeal is allowed in above terms.
17. Pending Applications also stand disposed of.

(G.P. MITTAL)
JUDGE

NOVEMBER 06, 2012

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