

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

Date of decision: 15th October, 2012

+ **MAC.APP. 1117/2011**

NATIONAL INSURANCE COMPANY LTD. Appellant
Through Mr. D.K. Sharma, Adv.

versus

SANGEETA & ORS Respondents
Through Mr. S.N. Parashar, Adv. for R-1
Mr. M.K. Sharma, Adv. for R-4.

CORAM:
HON'BLE MR. JUSTICE G.P.MITTAL

J U D G M E N T

G. P. MITTAL, J. (ORAL)

CM APPL.22433/2011 (Delay)

Delay of 28 days in filing the Appeal is condoned. The Application is allowed.

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1. The Appeal is for reduction of compensation of ₹28,49,900/- awarded for the death of Kuldeep Singh who died in a motor vehicle accident which occurred on 27.01.2007.
2. The finding on negligence is not challenged by the Appellant Insurance Company, thus, the same has attained finality.
3. The following contentions are raised on behalf of the Appellant Insurance Company :-

- (i) In the absence of any evidence with regard to good future prospects, the Claims Tribunal erred in making an addition of 50% towards future prospects. Reliance is placed on *Bijoy Kumar Dugar v. Bidyadhar Dutta & Ors.*, AIR 2006 SC 1255; and *Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr.*, (2009) 6 SCC 121.
 - (ii) There were four dependents including the deceased's father. There was no specific evidence that the deceased's father, that is, Om Prakash was financially dependent on deceased Kuldeep Singh. The Claims Tribunal ought to have deducted one-third of the deceased's income towards personal and living expenses instead of one-fourth.
4. On the other hand, it is urged by the learned counsel for Respondents/Claimants that the compensation awarded is just and reasonable.
5. I have before me the Trial Court Record. The certificate Ex.PW-1/1 shows that the deceased was working with Manglam Embroideries Pvt. Ltd. for the last about three years where 86 persons were employed. The consolidated statement of the salary of all the employees was proved as Ex.PW-2/A. The deceased was making contribution towards ESI and Provident Fund. It is, therefore, evident that the deceased was in permanent and stable employment. In *Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr.*, (2009) 6 SCC 121, it was laid down that the dependents were entitled to increase towards future prospects to the extent of 50% when the deceased is less than 40 years and 30% when

the deceased is above 40 years and less than 50 years, if he (the deceased) is in permanent job.

6. In the circumstances, the Claims Tribunal was justified in making an addition of 50% in the deceased's income.
7. As far as deduction towards personal and living expenses is concerned, the deceased left behind his widow, a child who was born after the death of the deceased and aged parents. In her testimony as PW-1 Smt. Sangeeta Devi claimed that Om Prakash, the deceased's father was aged 61 years at the time of the accident. In the circumstances, the deceased's father was rightly considered as dependent on the deceased.
8. The Appeal is devoid of any merit; the same is accordingly dismissed.
9. The statutory deposit of ₹25,000/- be refunded to the Appellant Insurance Company.
10. Pending Applications also stand disposed of.

(G.P. MITTAL)
JUDGE

OCTOBER 15, 2012

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