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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 15th January, 2015

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MAC.APP. 179/2007

THE NEW INDIA ASSURANCE CO. LTD.

..... Appellant

Through: Mr.Pankaj Seth, Advocate

versus

MAHENAZ & ORS.

..... Respondents

Through: None

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 Rs.14,86,200/- awarded by the Motor Accident Claims Tribunal (the Claims Tribunal) for the death of Azizuddin, who died in a motor vehicular accident which occurred on 22.06.2003 at about 7:20 a.m.
2. The Claims Tribunal took the salary of the deceased as Rs.7,609/- p.m. as per the salary certificate Ex.PW3/A produced by the Respondents and the salary slips Exs.PW4/DA and DB, added 50% towards future prospects, deducted 1/3rd towards

personal and living expenses and applied the multiplier of 16 as per the age of the deceased (32 years) and computed the loss of dependency as Rs.14,59,200/-.

3. It is urged by the learned counsel for the Appellant that instead of taking gross salary, only net salary which was payable to the claimants ought to have been considered; deceased Azizuddin was being paid a sum of Rs.2,975/- as conveyance allowance which ought to have been deducted from the salary and since there was no evidence of future prospects, the Claims Tribunal erred in granting future prospects to the extent of 50%.
4. I have perused the Trial Court record. Respondents no.1 to 5 produced the extract of the salary register which was proved as Ex.PW4/C, salary register for the months of March, April and May, 2003 and the salary certificate for the month of June, 2003. The salary in the month of June, 2003 was proved to be Rs.8,050/- which included the amount of Rs.2,975/- towards conveyance allowance.
5. It may be noted that deceased Azizuddin was a regular employee working as a Senior Auto Electrician with M/s Orion Automobiles (Delhi) Pvt. Ltd., an authorised dealer of Hyundai Motor Car Company. It is also noted that at the time of his joining to M/s Orion Automobiles, the deceased was getting a salary of Rs.6,000/- per month. Thus, it is evident that the deceased's salary was now increasing and he had good future

prospects.

6. The deceased was working only as a Senior Auto Electrician. It is not expected that he would spent the entire conveyance allowance of Rs.3,000/- per month merely for to and fro to the place of his employment, particularly when he had a large family of five members to support. In view of this, I will deduct only a sum of Rs.1,500/- from the conveyance allowance and take the income of the deceased to be Rs.6,550/- per month to compute the loss of dependency. The Respondents were entitled to an addition of 50% towards future prospects and a multiplier of 16 in view of *Sarla Verma & Ors. v. Delhi Transport Corporation & Anr.*, (2009) 6 SCC 121 which was approved in *Reshma Kumari v. Madan Mohan* (2009) 13 SCC 422. The deceased had four dependents and therefore, there will be 1/3rd deduction towards the personal living expenses. The loss of dependency thus, comes to Rs.12,57,600(Rs.6,550/- + 50% x 12 x 2/3 x 16).
7. It may be noted that the compensation awarded towards loss of love and affection, loss of consortium and funeral expenses was on the lower side. If a sum of Rs.1,00,000/- each is awarded towards loss of love and affection and loss of consortium, the compensation comes in the vicinity of the compensation which has been awarded by the Claims Tribunal to Respondents no.1 to 5. In view of this, it cannot be said that the compensation awarded is exorbitant and excessive.

8. The appeal therefore, has to fail; the same is accordingly dismissed.
9. Pending applications stand disposed of.
10. Vide order dated 21.03.2007, only 60% of the award amount was ordered to be deposited. Rest of the amount along with proportionate interest shall be deposited by the Appellant Insurance Company within four weeks in terms of the orders passed by the Claims Tribunal. The entire amount shall be released in favour of the Appellants as per the orders of the Claims Tribunal.
11. Statutory amount of Rs.25,000/-, if any, shall be refunded to the Appellant Insurance Company.

(G.P. MITTAL)
JUDGE

JANUARY 15, 2015
pst