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

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Date of Decision: 27th May, 2021

+ MAC.APP. 91/2017

VEENA RANI & ORS

..... Appellant

Through: Mr. H.S. Gautam, Advocate.

Versus

BHUPENDER & ORS (RELIANCE

GENERAL INSURANCE CO LTD)

..... Respondents

Through: Mr. A.K. Soni, Advocate for
respondent No.3.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

J U D G M E N T (O R A L)

1. The appellants have challenged the award of the Claims Tribunal whereby the compensation of Rs.7,80,000/- has been awarded to the appellants. The appellants seek enhancement of the award.

2. The accident dated 24th June, 2010 resulted in the death of Devender Kumar. The deceased was aged 48 years at the time of the accident and was working as a Security Guard with Hawk Eye Protection Detective Service Private Limited. The appellants claim that the deceased was earning Rs.7,000/- as salary and he was also running *Atta Chakki* after the duty hours and was earning about Rs.8,000/- per month from *Atta Chakki*. The deceased was survived by his widow, daughter, son and father, who claimed compensation.

3. The Claims Tribunal took the minimum wages of Rs.5,279/- per month as income of the deceased, deducted 1/3rd towards

personal expenses and applied the multiplier of 13 to compute the loss of dependency as Rs.5,50,000/- (Rs.5,48,808/- rounded off). The Claims Tribunal awarded Rs.1,00,000/- towards loss of love and affection, Rs.1,00,000/- towards loss of consortium, Rs.10,000/- towards loss to the estate and Rs.20,000/- towards funeral expenses. The total compensation awarded is Rs.7,80,000/-.

4. Learned counsel for the appellant urged at the time of hearing that the income of the deceased be taken as Rs.15,000/- per month (Rs.7,000/- towards salary and Rs.8,000/- towards income from *Atta Chakki*). It is further submitted that the personal expenses of the deceased be reduced to 1/3rd to 1/4th.

5. Learned counsel for the respondents urged at the time of hearing that there is no proof of income of the deceased either from his employment or *Atta Chakki* and, therefore, the minimum wages have been rightly taken as income of the deceased. It is further submitted that the compensation awarded under the head of loss of love of affection and loss to consortium be reduced.

6. Learned counsel for the appellants submits that appellants have filed the ESI card of the deceased which was exhibited as Ex.PW3/A. It is further submitted that the employer of the deceased did not provide the salary documents and, therefore, the appellant could not produce the same before this Court.

7. In view of the ESI card of the deceased proved by the appellants, the income of the deceased is taken as Rs.7,000/- per month. However, the claim of the deceased running the *Atta Chakki* is not proved and is, therefore, rejected. That deceased was aged 48

years and, therefore, 25% is added towards future prospects. The deceased has left behind four legal representatives and, therefore, 1/3rd deducted towards personal expenses. Applying the multiplier of 13, the loss of dependency is computed as Rs.9,10,000/-. The compensation for loss of love and affection is set aside as it is not a permissible head. The compensation for loss to consortium is enhanced to Rs.1,60,000/- (Rs.40,000/- each to four claimants). The compensation for loss of estate is increased from Rs.10,000/- to Rs.15,000/-, compensation for funeral expenses is reduced from Rs.20,000/- to Rs.15,000/-. Total compensation is computed as Rs.11,00,000/-. The appellants are entitled to total compensation of Rs.11,00,000/-.

8. The appeal is allowed and the award amount is enhanced from Rs. 7,80,000/- to Rs. 11,00,000/- along with interest @ 9% from the date of accident i.e. 24th June, 2010.

9. Respondent is directed to deposit the enhanced award amount along with up to date interest with DSLSA within a period of four weeks. Respondent No.3 shall give written notice of deposit to the claimants. Upon the aforesaid amount being deposited, the DSLSA shall disburse the amount to the appellants in terms of principles laid down in ***Rajesh Tyagi v. Jaibir Singh***, judgment dated 08th January, 2021.

10. The digitalized copy of the entire record be sent to DSLSA.

11. Copy of this judgment be sent to DSLSA.

J.R. MIDHA, J.

MAY 27, 2021
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