



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

Reserved on : 29.08.2023

Pronounced on : 04.09.2023

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MAC.APP. 279/2021

NATIONAL INSURANCE CO. LTD

..... Appellant

Through: Ms. Rakhi Dubey, Advocate.

versus

SH. SUBHASH & ORS.

..... Respondents

Through: Ms. Pinki Talukdar, Advocate for R-1
to R-4.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

JUDGMENT

RAJNISH BHATNAGAR, J.

1. The present appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the award dated 07.08.2021 with the following prayers:

"A) Set aside/reject the award dated 07th August, 2021 passed by Ms. Shuchi Laler, Presiding officer- Motor Vehicle Accident Claim Tribunal, Shahdara District, KKD Court, Delhi in MACT No. 448/2018 titled as Sh. Subhash v. Ankur Dev Arya And Others whereby the appellant/ National insurance Company is directed to pay Rs. 7,15,000/- alongwith interest @ 7.5% per annum from date of filing of the petition till the realization. However the interim compensation, if any shall be adjusted against this award amount

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along with the waiver of interest, if any as directed by waiver period of interest tribunal during the pendency of the case.

B) Pass such other and further order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

2. In brief, the facts of the case are that on 19.06.2018 at about 12:00 am Raja Ram was sitting in his Tea stall, G-5/5, Sundar Nagari, Delhi when a vehicle bearing no. UP 81 BB 6071, being driven by respondent no.5, namely, Ankur Dev Arya in a rash and negligent manner hit Raja Ram, as a result of which he sustained grievous injuries and succumbed to the injuries. Accordingly, FIR bearing No.401/18 under section 279/337 IPC was registered at Police Station Nand Nagari on 19.06.2018.

3. I have heard the learned counsel for the appellant as well as learned counsel appearing on behalf of respondent no. 1 to 4 and have perused the record.

4. It was submitted by learned counsel for appellant that the learned Tribunal did not consider the fact that respondent no.1 failed to explain in his affidavit as to how he or any of his other married brothers and sisters were dependent upon the deceased. It is further submitted that learned Tribunal erred in granting the compensation for loss of consortium to the brothers and sisters as it should not have been granted and in support of his contentions, learned counsel for the appellant has placed reliance on following judgments:

- ***Sarla Verma & Ors vs Delhi Transport Corp.& Anr. [(2009) 6 SCC 121];***



- ***National Insurance Co. Ltd. vs. Pranay Sethi & ors. [2017 (16) SCC 680];***
- ***United India Insurance Co. Ltd. versus Satinder Kaur @ Satwinder Kaur & Ors. [2020 SCC OnLine SC 410];***
- ***Magma General Insurance Company Ltd. Vs. Nanu Ram @ Charu Ram and Ors. [(2018) 18 SCC 130].***

5. On the other hand, it is submitted by learned counsel for the respondent no. 1 to 4 that the compensation awarded by the learned Tribunal is just, fair and reasonable as the respondents were dependent upon the deceased and thus, there is no error whatsoever in granting the compensation for loss of consortium to the brothers and sisters of the deceased.

6. The Learned Tribunal relied on ***National Insurance Ltd. vs. Birender & Ors. [Civil Appeal No.242-243 of 2020 dated 13.01.2020]*** wherein the Hon'ble Apex Court was pleased to grant compensation to married and gainfully employed major sons. In the light of aforesaid judgment, the claimants who are respondent No.1 to 3 are brothers of the deceased and respondent No.4 is married sister of deceased were considered as legal heirs of deceased by the learned Tribunal.

7. In the case of ***Gajanand & others vs. Virendra Singh & Ors. [2010 ACJ 145]*** the Hon'ble High Court of Madhya Pradesh observed that the brothers of deceased were entitled to compensation even in the absence of proof of actual dependency.

8. Reliance can also be placed upon the judgment of the Hon'ble Supreme Court in ***Gujarat State Road Transport Corporation vs.***



Ramanbhai Prabhatbhai & Another [(1987) SCC (3) 234] whereby it was held that having regard to the condition of the Indian society, every legal representative who suffers on account of the death of a person due to a motor vehicle accident should have a remedy for realization of compensation.

9. Furthermore, it has been observed by the Hon'ble Supreme Court time and time again that in the Indian society, brothers, sisters, brother's children and sometimes even foster children live together and they are dependent upon the bread-winner of the family. In such a scenario, if the bread-winner of the family has died on account of a motor vehicle accident, there is no justification to deny them compensation.

10. A similar view has been taken by the Supreme Court in ***N. Jayasree & Ors. Vs. Cholamandalam MS General Insurance Company Ltd. [2021 SCC Online SC 967]*** wherein it was observed that the term 'legal representative' should be given a wider interpretation for the purpose of Chapter XII of MV Act and it should not be confined only to mean the spouse, parents and children of the deceased. The Motor Vehicle Act is a benevolent legislation enacted for the object of providing monetary relief to the victims or their families. Therefore, the Motor Vehicle Act calls for a liberal and wider interpretation to serve the real purpose underlying the enactment and fulfill its legislative intent.



11. In view of the above, I find no infirmity in the impugned award passed by the learned Tribunal. Accordingly, the present appeal alongwith pending application is dismissed being devoid of any merits.

RAJNISH BHATNAGAR, J

SEPTEMBER 04, 2023/_p

