



2024:DHC:10051



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 23rd December, 2024+ MAC.APP. 339/2022, CM APPL. 46654/2022 (stay)

THE NEW INDIA ASSURANCE CO. LTDAppellant

Through: Mr. Chanda Shekhar and Mr.
Varnik Kundaliya, Advocates.

versus

1. MUNNI DEVI
(Widow of the Deceased)Respondent No.1
2. HARISH KUMAR
(son of the Deceased)Respondent No. 2
3. KAMLESH
(Daughter of the Deceased) ...Respondent No. 3
4. HARINDER
(Son of the Deceased)Respondent No. 4
5. ROHTASH
(Son of the Deceased) ...Respondent No.5

Through: Mr. S.N. Parashar, Advocate for
R1 to R5.**CORAM:****HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****JUDGMENT (oral)****MAC.APP. 339/2022**

1. The Appeal under Section 173 of the *Motor Vehicles Act, 1973* ('M.V. Act' *hereinafter*) has been filed on behalf of the Appellant/Insurance Company against the Award dated 03.08.2022 *vide*



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which the compensation in the sum of Rs.45,54,742/- along with the interest @6% p.a., has been granted, on account of demise of Mr. Ram Avtar, aged about 52 years, in a road accident on 07.04.2017.

2. The Award is challenged on the following grounds:

- i. that there is no proof of income of the deceased having a furniture shop, the income has been taken as Rs.30,000/- per month.
- ii. Loss of Consortium has been given for each of the four major children, which is not tenable. It is, therefore, submitted that the quantum of the compensation be reduced.

3. *Learned counsel appearing on behalf of the Claimants*, has submitted that the learned Tribunal, on the basis of one entry in the pass book, has cogently and for the reasons stated therein, has rightly taken the income of the deceased as Rs.30,000/- per month. There is no ground for interfering in the compensation amount granted to the Respondent and the Appeal is liable to be dismissed.

4. **Submissions heard and the record perused.**

5. There is no denial that the deceased was running a furniture shop in the name of M/s Om Furniture at Kirari, Nangloi, New Delhi, though it was claimed by the claimants that he was earning Rs.45,000/- per month. In support of which impugned Bill Book duly exhibited as Ex.PW-1/R3 containing Books of Account of M/s Om Furniture, was furnished.

6. The learned Tribunal relied on the Statement of Bank Account, Ex.PW-1/2, Dena Bank, Nangloi Branch, from April, 2016 to March,



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2017, to observe that there was a cumulative credit of Rs.3.57 Lacs. After making due deductions, the income of the deceased has been taken as Rs.30,000/- per month, not only this income of the deceased has been verified in the DAR and was stated to be Rs.30,000/- per month.

7. Considering the documents and the reasoning given by the learned Tribunal, there is no infirmity in taking the income of the deceased as Rs.30000/-. Pertinently, though the Insurance Company has challenged this monthly income of the deceased but has led no evidence whatsoever to counter the monthly income. There is no infirmity in the findings of the learned Tribunal.

8. The *second ground of challenge* is that even though, the four children of the deceased were major and two children were married. Each has been granted Loss of Consortium in the sum of Rs.44,000/-.

9. In the judgment passed by the Madras High in Branch Manager, ICICI Lombard General Ins. Co Ltd. vs. Kaliyamoorthy, 2018 KHC 5479; (2020) 11 SCC 356, it was observed that married daughters, a father or mother or brother, can always seek monetary help from their father/husband/son, and could be dependent upon them. Similarly, a mother can continuously render her valuable service to her daughter, even if the daughter is married and a married daughter would still continue to assist her mother, or father, in the case of need. Thus, this contribution by means of service or income, both can be taken into account to determine the quantum of compensation.

10. Therefore, the sum of Rs.2,20,000/- has been rightly awarded by the learned Tribunal. There is no need to interfere in the Appeal, which is hereby dismissed.



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11. The Appeal is accordingly disposed of along with the pending Application.

(NEENA BANSAL KRISHNA)
JUDGE

DECEMBER 23, 2024/RS

Signature Not Verified

Digitally Signed By: NIKAS
ARORA

Signing Date: 24.12.2024
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