

(2013) 10 DEL CK 0015

Delhi High Court

Case No: MAC. App. 819 of 2011

Reliance General
Insurance Co. Ltd.

APPELLANT

Vs

Seema Chopra and
Others

RESPONDENT

Date of Decision: Oct. 29, 2013

Hon'ble Judges: Suresh Kait, J

Bench: Single Bench

Advocate: Sameer Nandwani, for the Appellant; Sanjiv Gupta, Advocate for Respondent
Nos. 1 to 5, for the Respondent

Final Decision: Disposed Off

Judgement

Suresh Kait, J.

MAC. APP. 819/2011

1. The instant appeal is directed against the impugned award dated 25.07.2011, whereby the learned Tribunal has awarded the compensation as under:-

Interest at the rate of 7.5% per annum was also awarded on the total compensation amount from the date of filing of the petition till realization of the amount.

Learned counsel appearing on behalf of the appellant/Insurance Company has argued that deceased Sanjay Chopra died on 08.06.2010 pursuant to injuries received in the accident occurred on 30.05.2010. Though, as per the income tax Returns (ITR) filed for the year 2009-10, income of the deceased was shown as Rs. 4,52,325/- and in the ITR pertaining to 2010-11, it was shown as Rs. 5,05,384/-, despite that, the learned Tribunal has assessed the annual income of the deceased as Rs. 5,00,000/-. He further submitted that ITR of 2009-10 was filed by the deceased himself, whereas the subsequent ITR of 2010-11 was filed by the claimants. Hence, the learned Tribunal has wrongly assessed Rs. 5,00,000/- as annual income of the

deceased as it should have been Rs. 4,52,325/- in view of the ITR filed for the year 2009-10 by the deceased himself.

2. On this ground, admitted fact is that the deceased was a Photographer by profession and his income has been proved by the ITRs for the years 2009-10 and 2010-11 noted above. Moreover, during the life time of the deceased, as shown in the ITR 2009-10, his annual income was Rs. 4,52,325/- and in ITR of 2010-11, it was shown as Rs. 5,05,384/-, therefore, there is a marginal increase.

3. I note, annual income of Rs. 5,05,384/- shown in the ITR of year 2010-11 was assessed after deducting the TDS on the income of the deceased by the Income Tax Department. Therefore, neither it is a huge enhancement in the income of the deceased nor it can be denied in absence of any material or evidence contrary thereto led by the Insurance Company.

4. Therefore, I do not find any substance in the submissions made by the learned counsel for the appellant/Insurance Company on this count.

5. Secondly, learned counsel has argued that at the time of the accident, the deceased was aged about 46 years. Despite that, instead of granting 30% towards the future prospects, the learned Tribunal has wrongly added 50% towards the same.

6. Learned counsel appearing on behalf of the respondents/claimants has fairly conceded thereto.

7. Therefore, keeping in view the facts and circumstances of the case and the statement made by learned counsel for the respondents/claimants, I reduce the future prospects from 50% to 30%.

8. Consequently, the instant appeal is partly allowed and the compensation amount towards loss of dependency is reduced for Rs. 9,75,000/- (Rs. 73,12,500/-Rs. 63,37,500/-).

9. Vide order dated 17.10.2011, while granting stay, this Court directed the appellant/Insurance Company to deposit Rs. 63,00,000/- with UCO Bank, High Court of Delhi, New Delhi. Out of deposited amount, Rs. 50,00,000/- was directed to be released in favour of the respondents/claimants.

10. Therefore, the appellant/Insurance Company is directed to deposit the balance compensation amount alongwith upto date interest accrued thereon after deducting the amount of Rs. 9,75,000/- reduced by this Court on account of loss of dependency as noted above with the UCO Bank, High Court of Delhi, New Delhi within four weeks from today.

11. Thereafter, the Branch Manager of the aforesaid Bank is directed to release the balance compensation amount along with upto date interest accrued thereon in favour of the respondents/claimants in terms of the order dated 25.07.2011 on

taking necessary steps by them.

12. Statutory amount shall be released in favour of the appellant/Insurance Company. In view of the above, the appeal stands disposed of.

CM No. 17118/2011 (for stay)

With the dismissal of the appeal itself, both these applications have become infructuous. The same are dismissed accordingly.