

(2012) 10 DEL CK 0016  
Delhi High Court  
Case No: MAC. App. 718 of 2012

New India Assurance  
Company Ltd.

APPELLANT

Vs

Col. Lalit Chander  
Idani and Others

RESPONDENT

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Date of Decision: Oct. 30, 2012

Hon'ble Judges: G.P. Mittal, J

Bench: Single Bench

Advocate: Manjusha Wadhwa, with Ms. Arpan Wadhwan, for the Appellant; Navneet Goyal, with Ms. Suman N. Rawat, for R-1 and 2, for the Respondent

Final Decision: Dismissed

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### Judgement

G.P. Mittal, J.

This Appeal relates to award of compensation of Rs. 2,38,400/- by the Motor Accident Claims Tribunal (the Claims Tribunal) in Suit No. 561/2010 which relates to the death of Smt. Kaushalya Idnani, who died on account of the injuries suffered in the motor accident which occurred on 15.05.2008. The only ground of challenge raised by the Appellant Insurance Company is that the Respondents No. 1 and 2 who are the younger brother and sister of deceased Kaushalya Idnani is that they were not financially dependent on the deceased and thus, they were not entitled to any compensation on account of loss of dependency. The Claims Tribunal erred in awarding compensation of Rs. 2,28,400/- toward loss to estate on one-fourth pension of Rs. 15,226/- drawn by the deceased. Reliance is placed on a report of the Supreme Court in Smt. Manjuri Bera v. The Oriental Insurance Company Ltd. & Anr., AIR 2007 SC 1474.

2. I have before me the Trial Court record. It is evident that the First Respondent and deceased Kaushalya Idnani were residing together at B-19, Vasant Marg, Vasant Vihar, New Delhi. In fact, this was the house of the First Respondent. Thus, it is proved on record that the deceased was staying with her younger brother as a

member of his family. The deceased at the time of her death was aged 72 years. It has to be kept in mind that the elderly people do not have the tendency to spend more irrespective of the fact whether they have any financial liability or not. Although the Respondents No. 1 and 2 were not financially dependent on the deceased, yet whatever was saved by the deceased was to come to them (Respondents No. 1 and 2) as loss to estate.

3. In Manjuri Bera what was laid down by the Supreme Court was that even if the legal representatives are not financially dependent award of compensation cannot be less than the award under no fault liability. In Manjuri Bera the accident occurred on 11.05.1998 and a compensation of Rs. 50,000/- was awarded towards loss to estate. In the instant case, the deceased was earning pension of Rs. 15,226/- per month. The Claims Tribunal assumed that the deceased would be spending three-fourth amount on herself and took her savings as one-fourth which on a multiplier of 5 was awarded in favour of Respondents No. 1 and 2 as loss to estate, which to my mind was the pragmatic view taken by the Claims Tribunal. The impugned judgment thus cannot be faulted.

4. The Appeal is devoid of any merit; the same is accordingly dismissed.

5. The statutory deposit of Rs. 25,000/- be refunded to the Appellant Insurance Company. Pending Applications also stand disposed of.