

(2012) 05 DEL CK 0565

Delhi High Court

Case No: MAC. No. 478 of 2011

Krishan Kanta Marwah and
Another

APPELLANT

Vs

Reliance General Insurance Co.
Ltd. and Others

RESPONDENT

Date of Decision: May 17, 2012

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

Bench: Single Bench

Advocate: S.N. Parashar, for the Appellant; Sameer Nandwani, Advocate for Respondent
No. 1 Insurance Company, for the Respondent

Final Decision: Allowed

Judgement

G.P. Mittal, J.

The Appeal is for enhancement of compensation of Rs. 4,20,000/- awarded by the Claims Tribunal for the death of Vidit Marwah a B.Sc. first year student and aged a little less than 18 years, who died in an accident which occurred on 03.07.2007. By impugned order, the Claims Tribunal took the notional income of Rs. 15,000/- and following the judgment of this Court in National Insurance Co. Ltd. v. Farzana & Ors., awarded a compensation of Rs. 2,70,000/- towards loss of dependency and Rs. 75,000/- each towards future prospects and non-pecuniary damages.

2. It is urged by the learned counsel for the Appellant that since the deceased was doing a professional course, his parents ought to have been awarded compensation on the basis of his potential income.

3. It is established from the record that the deceased Vidit Marwa scored 83% marks in the 10th standard and 85% in the 12th standard conducted by the Central Board of Secondary Education. He was graded A1/A2 in all the subjects except Physical and Health Education. Obviously, the deceased did not have any income on the date of the accident.

4. During the inquiry before the Claims Tribunal, it was established that the deceased was pursuing B.Sc. (Computers) from a prestigious University and had an excellent educational record. However, no evidence was adduced by the Appellants to show the placement offers in the year of the death of the deceased or in the year in which the deceased would have passed out his B.Sc.(Computers).

5. In the case of [Haji Zainullah Khan \(Dead\) by Lrs. Vs. Nagar Mahapalika, Allahabad](#), death of a young boy, aged 20 years took place in an accident which happened in the year 1972. The deceased was a student of B.Sc Ist year (Biology), a compensation of Rs. 1,46,900/- was increased and rounded off to Rs. 1,50,000/-.

6. In Ganga Devi & Ors. v. New India Assurance Co. Ltd. & Ors., MAC APP. 359/2008, decided by this Court on 23.11.2009, which related to the death of a student (studying medicine) who was doing internship and was to be awarded the MBBS degree in a short time, the Tribunal awarded a compensation of Rs. 9,35,352/- on the basis of the minimum wages of a Graduate. This Court observed that although the deceased was getting a stipend of Rs. 5,000/- per month at the time of his death due to the accident, he would have ultimately joined as a doctor at a salary ranging between Rs. 16,000/- per month to Rs. 25,000/- per month. Thus, the average monthly income of the deceased was taken as Rs. 18,000/- and after adding 50% towards future prospects, the compensation was enhanced to Rs. 21,36,000/-.

7. In Ramesh Chand Joshi v. New India Assurance Company MAC APP.212-213/2006 decided on 20.01.2010 this Court took the potential income of a BE (Bio-Technology) First year student of Delhi College of Engineer (DCE) Rs. 38,333/- per month.

8. B.Sc.(Computers) is a hot selling course and if done from a prestigious institution like Delhi University, it has very good potential. Instead of going by mere speculation as to the placement in the private sector; I would go by the salary which a person can earn in a Government sector with this qualification. The gross salary of an Assistant Programmer having such educational qualification with a basic pay of Rs. 9,500/- as on the date of the accident would be about Rs. 15,000/-. Therefore, I take potential income of the deceased to be about Rs. 15,000/- per month.

9. The deceased's father Vipin Kumar Marwah also died in the same accident. The deceased left behind a widowed mother and a young unmarried sister. In the circumstances, I would deduct 1/3rd towards the personal and living expenses to compute the loss of dependency. The Appellant (deceased's mother) was aged 47 years on the date of the accident. The loss of dependency thus comes to Rs. 15,60,000/- (Rs. 15,000 X 2/3 X 12 X 13).

10. I further award a sum of Rs. 25,000/- towards loss of love and affection and Rs. 10,000/- each towards loss to estate and funeral expenses.

11. The overall compensation is thus enhanced from Rs. 4,20,000/- to Rs. 16,05,000/-.

12. The enhanced compensation of Rs. 11,85,000/- shall carry interest @ 7.5% per annum from the date of the filing of the Petition till its deposit. The Respondent Insurance Company is directed to deposit the enhanced amount along with interest in the UCO Bank, Delhi High Court Branch within six weeks.

13. 70% of the enhanced amount shall go to the First Appellant and 30% to the Second Appellant. 50% of the compensation awarded to each of the Appellant shall be released. Rest of the amount shall be held in Fixed Deposit for a period of two years, four years and six years in equal proportion. The Appeal is allowed in above terms.