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Shriram General Insurance Co. Ltd. Vs Krishna Devi and Ors

MAC. APP. 691 of 2011

Court: Delhi High Court

Date of Decision: April 11, 2012

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

Bench: Single Bench

Advocate: Pankaj Seth, for the Appellant; Anshuman Bal, Advocate for the Respondents No.1 to 3, for the Respondent

Final Decision: Dismissed

Judgement

G.P. Mittal, J.
The Appellant Shriram General Insurance Co. Ltd. seeks reduction of compensation of Rs. 4,49,537/- awarded for the

death of Subhash a bachelor aged 23 years on the date of the accident. The Claimants before the Claims Tribunal were the parents and an

unmarried sister aged 18 years. During inquiry before the Claims Tribunal, it was claimed that the deceased Subhash had joined Gnomon

Education Services Pvt. Ltd. as a driver on a salary of Rs. 4,500/- on 01.05.2008. He continued to work with the earlier said company till his

death on 14.08.2009. A salary certificate Ex.PW3/B issued by Amit Verma, CEO of the company was proved to show that his (deceased"s)

salary was raised to Rs. 10,500/- and that his age of retirement was January 15, 2046.

2. In order to establish the deceased"s salary, the Claimants examined PW3 Sunil Kumar Tiwari, Computer Operator working with Gnomon

Education Services Pvt. Ltd. He proved copies of the attendance register running into eight sheets as Ex.PW3/A(collectively) and the certificate

with regard to the salary and his (deceased"s) retirement as Ex.PW3/B. In cross-examination, the witness denied that the deceased"s salary had

not been increased from Rs. 4,500/- to Rs. 10,500/- per month. In the absence of production of any record with regard to the payment of the

actual salary during the relevant period, the Claims Tribunal declined to accept the salary certificate and the increase in the deceased"s salary and it

took the minimum wages of a skilled worker, added 50% towards future prospects to compute the loss of dependency.

3. The contentions raised on behalf of the Appellant Insurance Company are:

i) In the absence of any evidence as to the future prospects, the deceased was not entitled to any addition in the minimum wages.

ii) The compensation of Rs. 75,000/- awarded towards the loss of love and affection was exorbitant and excessive.

4. Although PW3 Sunil Kumar Tiwari proved the attendance sheets Ex.PW3/A and the certificate Ex.PW3/B. During the course of cross-

examination, he could not say as to on what basis the deceased"s salary was increased from Rs. 4,500/- to Rs. 10,500/- per month within a short

span of sixteen months. The increase was, therefore, suspicious and could not have been taken into consideration. At the same time, the certificate

Ex.PW3/B revealed that as per the company"s policy, the retirement of the deceased would have been 15.01.2046. It was sufficient to show that

the deceased was in permanent employment. Though the increase was disbelieved on account of the fact that it was astronomical; yet there was

evidence that the deceased had good future prospects on account of his permanent employment. The Claimants (i.e. the parents) were entitled to

loss of dependency on the proved salary of Rs. 4,500/- and an addition of 50% on account of future prospects on the basis of the ratio of the

Supreme Court in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, . Thus, the loss of dependency comes to Rs.

3,64,500/-(4500 + 50% X1/2 X 12 X 9).

5. A compensation of Rs. 75,000/- was awarded towards loss of love and affection. Loss of love and affection can never be measured in terms of

money. Thus, uniformity has to be adopted by the Courts while granting non-pecuniary damages. The Supreme Court in Sunil Sharma and Others

Vs. Bachitar Singh and Others, and in Baby Radhika Gupta and Others Vs. Oriental Insurance Co. Ltd. and Others, granted Rs. 25,000/- (in total

to all the claimants) only under the head of loss of love and affection. Thus, I would reduce the compensation under this head to Rs. 25,000/- only.

6. The compensation is recomputed as under:

Sl. Compensation under Awarded by the Claims Tribunal Awarded by

No. various heads this Court

1. Loss of Dependency Rs. 3,54,537/- Rs.

3,64,500/-

2. Loss of Love & Rs. 75,000/- Rs. 25,000/-

Affection

3. Loss to Estate Rs. 10,000/- Rs. 10,000/-

4. Funeral Expenses Rs. 10,000/- Rs. 10,000/-

Total Rs. 4,49,537/- (rounded to Rs. Rs.

4,50,000/-) 4,09,500/-

7. The Claim Petition was filed in September, 2009 when the rate of interest had started firming up. On long term deposits, nationalized banks

have started giving interest in the vicinity of 9% per annum. The Respondents(Claimants) were, therefore, entitled to interest @ 9% per annum as

against 7.5% per annum.

8. The difference between the compensation award granted by me with the increased interest @ 9% and the compensation award granted by the

Claims Tribunal with interest @ 7.5% is approximately Rs.20,000/-. Therefore, it cannot be said that the compensation awarded is excessive or

exorbitant. On the other hand, I would consider the same to be fair and reasonable. Thus, I would not like to interfere with the impugned judgment.

9. The Appeal is accordingly dismissed.

10. The statutory amount shall be refunded to the Appellant Insurance Company. No costs.