

(2012) 04 DEL CK 0443

Delhi High Court

Case No: MAC. APP. 691 of 2011

Shriram General Insurance Co.
Ltd.

APPELLANT

Vs

Krishna Devi and Ors

RESPONDENT

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% X 1/2 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. No.	Compensation under various heads	Awarded by the Claims Tribunal	Awarded by this Court
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1.	Loss of Dependency	Rs. 3,54,537/-	Rs. 3,64,500/-
2.	Loss of Love & Affection	Rs. 75,000/-	Rs. 25,000/-
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. 4,50,000/-)	Rs. 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.