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Sh. Sukhdev Dhal and ors. Vs. United India Ins. Co. Ltd.

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Court : Delhi

Decided On : Jan-27-2014

Judge : Suresh Kait

Appellant : Sh. Sukhdev Dhal and ors.

Respondent : United India Ins. Co. Ltd.

Judgement :

\$~25 * IN THE HIGH COURT OF DELHI AT NEW DELHI Judgment delivered on:

27. h January, 2014 % + MAC.APP. No.428/2013 SH. SUKHDEV DHAL & ORS. Represented by:Appellants Mr. S.N. Parashar, Advocate. Versus UNITED INDIA INS. CO. LTD. Represented by: Respondent Mr. P.R.Sikka and Mr.Amet Sikka, Advocates. CORAM: HON'BLE MR. JUSTICE SURESH KAIT SURESH KAIT, J.

(Oral) 1. Instant appeal has been preferred against the impugned award dated 20.01.2010, whereby the learned Tribunal has granted compensation for a sum of Rs.2,82,000/- with interest @ 9% per annum from the date of filing of the petition till realization of the amount.

2. Vide the present appeal, appellants are seeking enhancement of the compensation amount noted above.

3. Learned counsel appearing on behalf of the appellants has argued that on the date of accident, the deceased was 25 years of age. He was a bachelor and left behind his parents. He submitted that while calculating the loss of dependency, the learned Tribunal taking into consideration the Minimum Wages Act, 1948 considered the salary of the deceased as Rs.3,200/-, applicable to an unskilled person at the relevant time. Despite, the learned Tribunal has not added any amount in the income of the deceased towards future prospects while calculating the compensation.

4. Learned counsel further submitted that the compensation granted by the learned Tribunal on account of non-pecuniary damages like Rs.50,000/for loss of love and affection and Rs.10,000/- for funeral expenses is also on a very lower side.

5. To support his submissions, learned counsel has relied upon the case of Rajesh and Ors. Vs. Rajbir Singh and Ors. 2013 (6) SCALE563 6. On the other hand, learned counsel appearing on behalf of respondent/ Insurance Company while opposing the submissions made by learned counsel for the appellants/claimants has submitted that appellants have failed to establish that the deceased was in a permanent job, therefore, the learned Tribunal has rightly not added anything towards future prospects.

7. This Court has considered the issue of future prospects in the case bearing MACA No.846/2011 titled as ICICI Lombard General Insurance Co. Ltd. Vs. Angrej Singh & Ors., decided on 30.09.2013 and consistently following the dictum of Rajesh & Ors. (supra), wherein the Full Bench of the Apex Court has held that in the case of self-employed or persons with fixed wages, in case, the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects.

8. Therefore, keeping in view the settled position of law and that the age of deceased, i.e., 25 years at the time of the accident, I grant 50% of the actual income of the deceased towards future prospects.

9. In the present case, at the time of the accident, the deceased was 25 years of age. He was a bachelor and his aged parents were dependent upon him at that time. At the very young age, he lost his life and left his parents in lurch. Therefore, keeping into mind all the facts and circumstances of the case and following the dictum of Rajesh & Ors. (supra), I enhance the compensation on account of loss of love and affection from Rs.50,000/- to Rs.1,00,000/- and for funeral expenses from Rs.10,000/- to Rs.25,000/10. Accordingly, the compensation amount comes as under: Sl. No.Heads of Compensation 1. Loss dependency Loss of love and Rs. 50,000/affection For funeral Rs. 10,000/expenses Loss to estate Rs. 10,000/- 2.

3.

4. TOTAL11 Accordingly, Compensation granted by Tribunal of Rs.2,12,000/- Rs.2,82,000/- the enhanced Compensation Id. granted by this Court Rs.3,16,800/Rs.1,00,000/Rs. 25,000/Rs. 10,000/Rs.4,51,800/- compensation amount Rs.1,69,800/-(Rs.4,51,800 Rs.2,82,000). comes to 12. The enhanced compensation amount also shall carry interest @ 9% per annum from the date of filing of the claim petition till its realization.

13. Accordingly, the appellant/Insurance Company is directed to deposit the enhanced compensation amount with upto date interest accrued thereon with the Registrar General of this Court within a period of five weeks from today, failing which, appellants/claimants shall be entitled for penal interest @ 12% per annum on account of delayed payment.

14. On deposit, the Registrar General is directed to release the amount in favour of the appellants/claimants in terms of the award dated 20.01.2010 passed by the learned Tribunal.

15. In view of the above, the appeal is allowed. SURESH KAIT, J.

JANUARY27 2014 sb