

Devki Devi & Ors vs.magma Hdi General Insurance Co Ltd

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SooperKanoon Citation : sooperkanoon.com/1216522

Court : Delhi

Decided On : Jul-27-2018

Appellant : Devki Devi & Ors

Respondent : Magma Hdi General Insurance Co Ltd

Advocate for Pet/Ap. : Mr. Bharvi Thakur, Mr. Bharvi

Judgement :

IN THE HIGH COURT OF DELHI AT NEW DELHI \$~22 & 46 * % + MAC.APP.
1120/2017 22 MAGMA HDI GENERAL INSURANCE Date of Decision:

27. h July, 2018 CO LTD Through: Mr.Ved Vyas Appellant Tripathi and
Ms.Vidisha Kanoria, Advocates versus DEVKI DEVI & ORS

... RESPONDENTS

Through: Mr.Peeush Sharma and Mr. Bharvi Thakur, Advocates for R-1 & R-2 +
MAC.APP. 328/2018 46 DEVKI DEVI & ORS Through: Mr.Peeush Sharma and
Mr. Bharvi Appellant Thakur, Advocates for R-1 & R-2 versus MAGMA HDI
GENERAL INSURANCE CO LTD Through: Mr.Ved Vyas

... RESPONDENTS

Tripathi and Ms.Vidisha Kanoria, Advocates CORAM: HON'BLE MR. JUSTICE
J.R. MIDHA JUDGMENT (ORAL) 1. The parties have challenged the award of the
Claims Tribunal MAC.APP. 1120/2017 & 328/2018 Page 1 of 4 whereby the
compensation of Rs.10,41,000/- has been awarded to the claimants. The appellant

in MAC APP.1120/2017 is seeking reduction, whereas the appellants in MAC APP.328/2018 are seeking enhancement of compensation amount.

2. The accident dated 13th May, 2014 resulted in death of Balam Singh. The deceased was aged 56 years at the time of accident and was survived by his widow and two sons who claimed compensation. The deceased was working as Security Supervisor at a salary of Rs.15,500/- per month.

3. The Claims Tribunal took the minimum wages of Rs.8,554/- as income of the deceased, deducted 1/3rd towards his personal expenses and applied the multiplier of 9 to compute the loss of dependency as Rs.6,15,888/-. The Claims Tribunal awarded Rs.25,000/- towards medical expenses, Rs.1,50,000/- towards loss of love and affection, Rs.1,50,000/- towards loss of consortium, Rs.50,000/- towards loss of estate and Rs.50,000/- towards funeral expenses. The total compensation awarded is Rs.10,41,000/-.

4. Learned counsel for the appellant in MAC APP.1120/2017 urged at the time of hearing that loss of love and affection is no more a permissible head. It is further submitted that loss of consortium be reduced to Rs.40,000/- and loss of estate and funeral expenses be reduced to Rs.15,000/- each in terms of principles laid down in National Insurance Co. Limited vs. Pranay Sethi and Ors. 2017 SCC Online SC1270 5. Learned counsel for the appellant in MAC APP.328/2018 urged at the time of hearing that income of the deceased be taken as Rs.15,500/- per month which was duly proved by his appointment letter, Ex.PW and the salary slip for the month of April, 2014. It is further submitted that the future MAC.APP. 1120/2017 & 328/2018 Page 2 of 4 prospects of 10% be awarded in terms of principles laid down in National Insurance Co. Limited vs. Pranay Sethi and Ors. (supra).

6. There is merit in the contentions urged by learned counsel for both the parties. The loss of love and affection is no more a permissible head and therefore, compensation of Rs.1,50,000/- awarded under the head of loss of love and affection is liable to be set aside. The compensation for loss of consortium, loss of estate and funeral expenses is liable to be reduced to Rs.70,000/- in terms of Pranay Sethi (supra). With respect to the income of the deceased, the deceased

was a security supervisor working in M/s Smart Rangers Pvt. Ltd. and appointment letter, EX.PW

and the attested copy of the salary slip for the month of April, 2014 have been duly proved. The claimants are entitled to future prospects of 10% in terms of principles laid down in National Insurance Co. Limited vs. Pranay Sethi and Ors. (supra).

7. Taking the income of the deceased as Rs.15,500/- per month, adding 10% towards future prospects, deducting 1/3rd towards personal expenses, and applying multiplier of 9, the loss of dependency is computed as Rs.12,27,600/-. Rs.40,000/- is awarded towards loss of consortium, Rs.15,000/- is awarded towards loss of estate and Rs.15,000/- is awarded towards funeral expenses. The Claims Tribunal has awarded medical expenses of Rs.25,000/- whereas medical expenditure of Rs.25,354/- was duly proved before the Claims Tribunal. Adding Rs.25,354/- towards medical expenses, total compensation is computed as Rs.13,22,954/

Both the appeals are allowed. However, the compensation awarded by the Claims Tribunal is enhanced from Rs.10,41,000/- to Rs.13,22,954/- along with interest at the rate 9% per annum from the date of institution i.e. 27th August, 2014. MAC.APP. 1120/2017 & 328/2018 Page 3 of 4 9. The appellant in MAC APP.1120/2017 is directed to deposit the enhanced award amount along with up to date interest with the Registrar General of this Court within four weeks.

10. The appellant would be entitled to the recovery rights in terms of the award of the Claims Tribunal after depositing the enhanced award amount.

11. The statutory amount be refunded back to the appellant after deposit of enhanced award amount.

12. List for disbursement of enhanced award amount on 28th September, 2018.

13. The claimant No.1 shall remain present in Court along with the passbook of her savings bank account near the place of residence.

14. Copy of this judgment be given dasti to counsel for both the parties under signature of Court Master. JULY27 2018 ds J.R.MIDHA, J.

