

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 904 of 1992

Appellant :- Oriental Insurance Company Ltd.

Respondent :- Smt. Shakuntla Devi And Others

Counsel for Appellant :- ,Arun Kumar Shukla

Counsel for Respondent :- P. Kumar

Hon'ble Saral Srivastava,J.

1. List has been revised.Learned counsel for the respondent is not present.

2. Heard learned counsel for the appellant.

3. The present appeal has been filed by the appellant against the award dated 30.05.1992 passed by Motor Accident Claims Tribunal/Vth Additional District Judge, Etawah in M.A.C.P. No.169 of 1991.

4. Challenging the said award, learned counsel for the appellant has contended that the compensation awarded by the Tribunal is excessive, inasmuch as the accident had taken place on 23.03.1991 and it is stated that the deceased was carrying the business of goldsmith as well as fertilizer agency etc. and was earning Rs.4,500/- per month. However, the Tribunal without there being any evidence on record assessed the income of the deceased to be Rs.3,000/- per month. It is submitted that the accident had taken place in the year 1991 and therefore, in the absence of any evidence on record in respect to the income of the deceased, assessment of income of the deceased to be Rs.3,000/- per month is on

higher side. It is further contended that the Tribunal has erred in applying the multiplier of 34 inasmuch as in view of the judgement of the Apex Court in the case of **Sarla Verma and others Vs. Delhi Transport Corporation and others 2009 (6) SCC 121** considering the age of the deceased, i.e. 34 years, the Tribunal should have applied the multiplier of 16. It is also submitted that the award of 15% interest is also on higher side. It is also submitted that the Tribunal has erred in law in awarding Rs.1,10,000/- towards non-pecuniary damages.

5. Be that as it may, this Court has perused the record and finds that the claimant/ respondent no.1, widow of the deceased, in her testimony has stated that the deceased was earning Rs.4500/- per month, however, the Tribunal has assessed the income of the deceased to be Rs.3,000/-. Since, the Tribunal has not awarded any amount towards future prospect and considering the fact that the claimant-respondent no.1 has stated in her testimony that the deceased was earning Rs.4,500/- per month, therefore, this Court is not inclined to interfere with the assessment of income of the deceased to be Rs.3,000/- per month by the Tribunal.

6. The submission of learned counsel for the claimants/appellant in respect to multiplier of 16 has got substance, and thus, following the judgement of the Apex Court in the case of **Sarla Verma (supra)**, this Court holds that compensation should be calculated by applying the multiplier of 16 instead of 34.

7. This Court also finds substance in the submission of

learned counsel for the appellant in respect to the award of Rs.1,10,000/- towards non-pecuniary damages considering the fact that the accident had taken place in the year 1991 and the Tribunal without giving any reason has awarded Rs.1,10,000/- towards non-pecuniary damages. Since, the accident had taken place in the year 1991 and the amount of Rs.1,10,000/- awarded by the Tribunal towards non-pecuniary damages is excessive, therefore, this Court reduces the award of Rs.1,10,000/- towards non-pecuniary damages to Rs.30,000/-

8. The submission of learned counsel for the appellant in respect to award of 15% interest also has substance, and accordingly, this Court reduces interest from 15% to 9%.

9. The amount of award shall carry 9% interest from the date of the institution of claim petition till the date of its payment.

10. For the reasons given above, the appeal is partly allowed and award of the Tribunal is modified to the extent as indicated above. The insurance company is directed to pay the amount of compensation to the claimants/appellants within a period of three months from the date of production of certified copy of this order. There shall be no order as to cost.

Order on Cross Objection

Case called out in the revised list. Learned counsel for the cross-objector is not present.

Accordingly, the Cross Objection filed by the claimants/respondents-cross objector is want of prosecution.

Order Date :- 26.10.2023

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