

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 1181 of 1998

Appellant :- Ram Sahai And Another

Respondent :- Raghuveer Singh And Another

Counsel for Appellant :- Madhav Jain

Hon'ble Saral Srivastava,J.

1. Heard learned counsel for the claimants/appellants and learned counsel for the respondents.

2. The present appeal has been filed by the claimants/appellants for enhancement of compensation.

3. Learned counsel for the claimants/appellants has contended that the accident had taken place in the year 1995 and the deceased was engaged in the dairy business and used to earn Rs.2000/- per month whereas the Tribunal has erred in law in not considering the aforesaid amount in computing the compensation. It is submitted that even if, there was no proof of income of the deceased, the Tribunal ought to have taken at least Rs.15,000/- per annum for computing the compensation. It is further submitted that considering the age of the deceased, the claimants/appellants are also entitled to 10% towards future prospect in view of the judgment of Apex Court in the case of **National Insurance Company Limited Vs. Pranay Sethi and Others 2017 (16) SCC 680**.

4. It is further submitted that there were two dependents upon the deceased, therefore, considering the judgment of the Apex Court in the case of **Sarla Verma and others Vs. Delhi Transport Corporation and others 2009 (6) SCC 121**, Tribunal should have

deducted 1/3rd towards personal expenses of the deceased. It is further contended that in the present case, the Tribunal should have applied the multiplier of 11 considering the age of the deceased. Lastly, it is submitted that the claimants/appellants are entitled to Rs.10,000/- towards non pecuniary damages. It is submitted that the compensation awarded by the tribunal is not adequate.

5. Per contra, learned counsel for the respondents submits that the compensation awarded by the tribunal is just and proper as there was no proof of income of the deceased. Thus, the submission is that the compensation awarded by the Tribunal in the instant case is just and proper and based on proper appreciation of facts and does not call for any interference by this Court in appeal.

6. Having heard learned counsel for the parties and perused the record.

7. The submission of learned counsel for the claimants/appellants in respect of assessment of income of the deceased has substance. Accordingly, it is provided that the Tribunal should have taken the income of the deceased to be Rs.15,000/- per annum for the purpose of computation of compensation.

8. The submission of learned counsel for the claimants/appellants in respect of future prospect has got force in view of the judgment of Apex Court in the case of **Pranay Sethi (supra)** and thus, following the aforesaid judgment of Apex Court, claimants/appellants are entitled to 10% towards future prospect considering the age of the deceased.

9. The submission of learned counsel for the claimants/appellants with regard to deduction of 1/3rd towards personal expenses of the

deceased in view of the judgment of Apex Court in the case of **Sarla Verma (supra)** has got substance. Thus, considering the dependents upon the deceased, it is provided that 1/3rd should be deducted towards personal expenses of the deceased from the income of the deceased for computation of compensation.

10. The submission of learned counsel for the claimants/appellants in respect of wrong application of multiplier has also substance in view of the judgment of Apex Court in the case of **Sarla Verma (supra)**. Thus, it is provided that compensation should be computed by applying the multiplier of 11.

11. The submission of learned counsel for the claimants/appellants in respect of grant of non-pecuniary expenses has got force and thus, the Court awards Rs.10,000/- towards non-pecuniary damages.

12. It is also provided that enhanced amount of compensation shall carry 6% simple interest from the date of institution of claim petition till its payment.

13. 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 enhanced amount of compensation to the claimants/appellants within a period of three months. There shall be no order as to cost.

Order Date :- 18.10.2023

R.S. Tiwari