

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 578 of 1999

Appellant :- Subey Singh And Another

Respondent :- Ashok Kumar And Others

Counsel for Appellant :- Surendra Tiwari

Hon'ble Saral Srivastava,J.

Order on Delay Condonation Application No.3 of 2023

The applicant has shown sufficient cause for the delay in filing the Civil Misc. (Deletion) Application in paragraph nos.4 to 8 of delay condonation application.

The delay in filing the Civil Misc. Substitution Application is condoned.

The delay condonation application is **allowed**.

Order on Civil Misc. Substitution Application No.4 of 2023

Heard learned counsel for the applicant and learned counsel for the respondents.

The present substitution application has been filed by the appellant no.1/1 Mahendra Singh (brother) and appellant no.2 Smt. Shyamo Devi (mother) of claimant/appellant no.1/2 Pawan Kumar who died on 27.09.2005, for substituting the words 'since deceased' after the name of appellant no.1/2-Pawan Kumar.

Learned counsel for the respondents states that he has no objection in case the substitution application is allowed.

Consequently, the substitution application is **allowed**.

Let necessary correction/substitution be incorporated in the array of parties during the course of the day.

Order on Appeal

1. Heard learned counsel for the appellants and learned counsel for the respondents.
2. The present appeal has been filed by the claimants/appellants for enhancement of award dated 16.02.1999 passed by Motor Accident Claims Tribunal/Ist Additional District Judge, Ghaziabad, by which the Tribunal awarded Rs.86,500/- in total, out of which Rs.43,250/- along with 12% interest to the appellant no.1-Subey Singh, son of Santa Singh and Rs.43,250/- along with 12 interest to the appellant no.2-Smt. Shyamo Devi, wife of Subey Singh passed in M.A.C. P. No.300 of 1995.
3. In the instant case, the claimants claimed for enhancement of award for the death of a minor child Sanjay aged about 17 years, which is evident from the post mortem report..
4. The Tribunal has awarded total Rs.86,500/- to the claimants/appellant alongwith 12% interest.
5. Challenging the aforesaid award, learned counsel for the appellant has contended that in the case of **Kurvan Ansari alias Kurvan Ali and another Vs. Shaym Kishore Murmu and another (20) 1 SCC 317**, the Apex Court has awarded compensation of Rs.4,70,000/- in case of death of a minor child. Accordingly, it is submitted that as the controversy in hand is squarely covered by the judgement of the Apex Court in **Kurvan Ansari alias Kurvan Ali (supra)**, therefore, the same amount of compensation shall be awarded to the claimant/appellant.

6. Per contra, learned counsel for the respondents has contended that the deceased was only 17 years of age and, therefore, no loss of income was suffered by the claimants/ appellants and the Tribunal has rightly awarded Rs.86,500/- as compensation to the claimants/appellants.

7. The Apex Court in the case of **Kurvan Ansari alias Kurvan Ali (supra)** has awarded in case of death of a minor child Rs.4,70,000/- as compensation. Considering the fact that the controversy in hand is squarely covered by the judgement of the Apex Court in the case of **Kurvan Ansari alias Kurvan Ali (supra)**, this Court also enhances the compensation from Rs.86,500/- to Rs.4,70,000/-.

8. The enhanced amount shall carry 6% interest from the date of institution of claim petition till the amount is paid. The respondent Insurance Company is directed to pay the enhanced amount of compensation to the claimants/appellants within a period of three months from the date of production of certified copy of this order.

9. For the reasons given above, the appeal is partly **allowed** and the award is modified to the extent indicated above.

Order Date :- 27.10.2023

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