

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 29 of 2001

Appellant :- Oriental Insurance Co. Ltd. Alld.

Respondent :- Girish Chandra Nishad Alias Munne And Others

Counsel for Appellant :- K.S.Amist

Counsel for Respondent :- Ram Singh

Hon'ble Saral Srivastava,J.

Order on Appeal:-

The appeal is **dismissed**. For orders, see order of date passed on **FAFO No.32 of 2001**.

Order on Cross Objection:-

1. Heard learned counsel for the claimants/cross objectors and learned counsel for the respondents.
2. The present appeal has been filed for enhancement of the compensation.
3. Learned counsel for the claimants has contended that the deceased was aged about 35 years at the time of accident and, therefore, the tribunal ought to have awarded 40% towards future prospect in view of the judgement of the Apex Court in the case of **National Insurance Company Limited v. Pranay Sethi and Others 2017 (16) SCC 680**. He has further contended that there were seven dependants upon the deceased, therefore, considering the judgement of the Apex Court in the case of **Sarla Verma and others Vs. Delhi Transport Corporation and others 2009 (6) SCC 121**, the

Tribunal should have deducted 1/5th towards personal expenses of the deceased. He has further submitted that the claimants are entitled for Rs.15,000/- towards loss of estate.

4. Per contra, learned counsel for the respondents has contended that the compensation awarded by the tribunal is just and proper and does not call for any interference by this Court.

5. This Court finds substance in the submissions of learned counsel for the claimants with respect to future prospect in view of the judgement of the Apex Court in the case of **Pranay Sethi (supra)** and accordingly, awards 40% towards future prospect.

6. It is also established on record that there were seven dependants upon the deceased, therefore, in view of the judgement of Apex Court in the case of **Sarla Verma (supra)**, 1/5th should have been deducted by the Tribunal towards personal expenses of the deceased.

7. The submission of learned counsel for the cross objector in respect of loss of estate has substance. Accordingly, this Court deems it fit to award Rs.15,000/- towards loss of estate to the claimants.

8. The cross objection is **partly allowed** and the award of the tribunal is modified to the extent indicated above.

Order Date :- 1.11.2023

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