

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 218 of 1998

Appellant :- Kumari Malti

Respondent :- U.P. State Road Transport

Counsel for Appellant :- Anil Mullick

Counsel for Respondent :- R.D. Gupta

Hon'ble Saral Srivastava,J.

1. Heard learned counsel for the claimant/appellant.
2. The present appeal has been preferred by the claimant/appellant for enhancement of award dated 01.12.1997 passed by the Motor Accident Claims Tribunal/Xth Additional District Judge, Meerut whereby Tribunal has awarded Rs.80,000/- alongwith 12% interest as compensation to the claimant/appellant.
3. It is very unfortunate that learned counsel for the appellant has appeared in the case without preparing the case, however, in the interest of justice, this Court is passing the order after perusing the record.
4. It is submitted by the learned counsel for the claimant/appellant that Tribunal has erred in law in computing the compensation without taking the notional income of the claimant/appellant. It is submitted that even if there was no proof of income of the claimant/appellant on record, the Tribunal ought to have taken Rs.15,000/- per annum as notional income of the deceased. It is further submitted that no amount towards future prospect has been awarded to the claimant/appellant whereas considering the age of the claimant/appellant, she is also entitled to 40% towards future prospect in view of the judgement of Apex Court in the case of ***Pappu Deo Yadav Vs. Naresh Kumar & Others, AIR 2020 SC 4424.***
5. It is further submitted that Tribunal has erred in awarding lump-sum amount of Rs.80,000/- whereas considering the age of the claimant/appellant, Tribunal should have applied the multiplier of 15 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*** in computing the compensation. Lastly, it is urged that no amount towards pain and suffering has been awarded

by the Tribunal whereas considering the nature of injuries suffered by the claimant/appellant, it should have awarded at least Rs.30,000/- towards the aforesaid head.

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

7. The submission of learned counsel for the claimant/appellant in respect of future prospect has got force in view of the judgement of Apex Court in the case of **Pappu Deo Yadav (supra)** and thus, following the aforesaid judgement of Apex Court, considering the age of the claimant, she is entitled to 40% towards future prospect.

8. So far as the submission of learned counsel for the claimant/appellant in respect of application of multiplier is concerned, the said submission is supported by the judgement of Apex Court in the case of **Sarla Verma (supra)** and thus, it is provided that enhanced amount of compensation shall be computed by applying the multiplier of 15.

9. The submission of learned counsel for the claimant/appellant with regard to compensation towards pain and suffering has also got substance. Thus, this Court holds that the claimant/appellant is also entitled to Rs.30,000/- towards pain and suffering.

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

11. Thus, for the reasons given above, the appeal is partly **allowed** and the award of the Tribunal is modified to the extent indicated above. The U.P.S.R.T.C. is directed to pay the enhanced amount of compensation to the claimant/appellant within a period of three months from the date of production of a certified copy of this order. There shall be no order as to costs.

Order Date :- 1.11.2023

Sattyarth