

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 1031 of 2006

Appellant :- Sri Shiv Kumar Agnihotri

Respondent :- The National Insurance Compnay Ltd. And
Another

Counsel for Appellant :- Mohd. Naushad Siddiqui

Counsel for Respondent :- Komal Mehrotra

Hon'ble Saral Srivastava,J.

1. Heard learned counsel for the appellants and learned counsel for the respondents.
2. The present appeal has been filed by the appellant challenging the award dated 08.12.2005 passed by Motor Accident Claims Tribunal/Additional District Judge, Court No.5, Kanpur Nagar in C.P. No.883/2002.
3. In the instant case, the claimant claimed for enhancement of award for the death of a child Ankita aged about 12 years.
4. The Tribunal has awarded Rs.1,35,000/- lump sum along with 6% interest.
5. In view of the order passed in connected appeal i.e. F.A.F.O. No.1012 of 2006, wherein, this Court has set aside the finding of the Tribunal holding 40% negligence of the rider of scooter, in this case also, following the judgment of this case, finding of the Tribunal is set aside.
6. 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 (2022) 1 SCC 317**, the Apex Court has awarded compensation of Rs.4,70,000/- in case 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.

7. Per contra, learned counsel for the respondents has contended that the deceased was 12 years of age and, therefore, no loss of income was suffered by the claimant/appellant and the Tribunal has rightly awarded Rs.1,35,000/- lump sum as compensation to the claimant/appellant.

8. The Apex Court in the case of **Kurvan Ansari alias Kurvan Ali (supra)** has awarded in case of a minor Rs.4,70,000/- as compensation and 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.1,35,000/- to Rs.4,70,000/-.

9. The enhanced amount of compensation shall carry 6% interest from the date of institution of claim petition till the amount is paid. The Insurance Company 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 certified copy of this order.

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

Order Date :- 30.10.2023

R.S. Tiwari