

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 228 of 2005

Appellant :- Smt. Anand Prabha Agnihotri And Others

Respondent :- The Oriental Insurance Co. Ltd. And Others

Counsel for Appellant :- Anil Kumar Sharma, Rakesh Kumar Porwal

Counsel for Respondent :- Mithilesh Kumar Tiwari

Hon'ble Saral Srivastava, J.

1. Heard Sri R.K.Porwal, learned counsel for the claimants/appellants and Sri M.K.Tiwari, learned counsel for the respondents.

2. The present appeal has been filed by the claimants/appellants for enhancement of award 15.10.2004 passed by Motor Accident Claims Tribunal/Special Judge (S.C./S.T. Act), Kanpur Nagar in MA.C.P. No.85 of 2000.

3. Challenging the award, learned counsel for the appellants has contended that no amount towards future prospect has been awarded by the Tribunal, whereas considering the age of the deceased, i.e., 43 years, the claimants/appellants are entitled to 25% towards future prospect in view of the judgement of Apex Court in the case of **National Insurance Company Limited Vs. Pranay Sethi and Others 2017 (16) SCC 680**. Lastly, it is contended that there were four dependents 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**, Tribunal should have deducted 1/4 towards personal expenses of the deceased instead of 1/3.

4. Per contra, learned counsel for the respondents has submitted

that the compensation awarded by the Tribunal is just and adequate and as such, no interference is called for by this Court.

5. I have heard learned counsel counsel for the parties and perused the record.

6. Be that as it may, the submission of learned counsel for the claimants/appellants in respect of future prospect has got force in view of the judgement of Apex Court in the case of **Pranay Sethi (supra)**, and thus, following the aforesaid judgement of Apex Court, this Court holds that the claimants/appellants are entitled to 25% towards future prospect considering the age of the deceased.

7. The submission of learned counsel for the claimants/appellants with regard to deduction of 1/4 towards personal expenses of the deceased instead of 1/3 has got substance, and thus, following the judgement of the Apex Court in the case of Sarla Verma (supra), it is provided that 1/4 should be deducted towards personal expenses of the deceased instead of 1/3 from the income of the deceased for computation of compensation.

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

8. 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 from the date of production of certified copy of this order. There shall be no order as to cost.

Order Date :- 31.10.2023

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