

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 891 of 2002

Appellant :- Shri Alladeen And Another

Respondent :- New India Assurance Co. Ltd. Thru D.M. And Ors.

Counsel for Appellant :- Mohd. Naushad Siddiqui, Shreesh Srivastava

Counsel for Respondent :- D.C.Srivastava, Anubhav Sinha

Hon'ble Saral Srivastava, J.

1. Sri Shreesh Srivastava, learned counsel for the appellants and Sri Anubhav Sinha, learned counsel for the respondents.

2. The present appeal has been filed by the claimants/appellants for enhancement of award dated 30.03.2002 passed by the Motor Accident Claims Tribunal/VIth Additional District Judge, Kanpur Nagar (hereinafter referred to as 'Tribunal') whereby Tribunal has awarded Rs.60,000/- alongwith 9% interest as compensation to the claimants/appellants.

3. Challenging the aforesaid award, learned counsel for the claimants/appellants 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 in case of a minor child has awarded compensation of Rs.4,70,000/-. 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 claimants/appellants.

4. It has been pointed out by Sri Anubhav Sinha, learned counsel for the respondents that as per the claim petition, the age of the deceased was 18 years, therefore, judgement of ***Kurvan Ansari alias Kurvan Ali (supra)*** will not be applicable in the facts of the present case.

5. Be that as it may, this Court perused the original record of the case and finds that in the post-mortem report, the age of the deceased was recorded as 16 years, however, some interpolation has been made in the age of the deceased in the post-mortem report and '16' has been made as '18'. Since, post-mortem report clearly reveals that the age of the deceased was 16 years, therefore,

this Court is of the view that age of the deceased at the time of death was 16 years.

6. Further, 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.60,000/- to Rs.4,70,000/-.

7. The enhanced amount shall carry 6% simple 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 claimants/appellants within a period of three months from the date of production of certified copy of this order.

8. Thus, for the reasons given above, the appeal is partly ***allowed*** and the award of the Tribunal is modified to the extent indicated above.

Order Date :- 28.10.2023

Sattiyarth