

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 2697 of 2006

Appellant :- Subhash Chandra Nalwa And Others

Respondent :- Abdul Malik And Another

Counsel for Appellant :- Manoj Kumar Singh, Manish Pandey, Radhey Krishna Pandey

Counsel for Respondent :- Amit Singh

Hon'ble Saral Srivastava, J.

1. Heard learned counsel for the appellants and learned counsel for the respondents.
2. Appellants/claimants being dissatisfied with the quantum of compensation awarded by the Tribunal have preferred the present appeal for enhancement of compensation.
3. Appellants/claimants have instituted the claim petition for the death of one Smt. Chitra who died in an accident on 28.09.2004 with Bus No.HR03/3158. The deceased was a Government employee and was drawing salary of Rs.12,710/- per month. In this backdrop, appellants/claimants prayed for compensation of Rs.28,55,240/-.
4. The Tribunal in assessing the compensation held the income of the deceased to be Rs.12,710/- per month. The Tribunal for the purpose of computing the compensation held the income of the deceased to be Rs.7,559/- after deducting the amount of Rs.5,151/- towards housing loan taken by the deceased. Thus, in total sum of Rs.7,95,636/- along with 6% interest was awarded by the Tribunal as compensation.
5. Challenging the quantification of compensation, learned counsel for the appellants has contended that Tribunal has erred in deducting the amount from the salary of the deceased towards housing loan inasmuch as, the said amount cannot be deducted from the salary of the deceased for the purpose of computing compensation. He further submits that deceased was a government employee and, therefore, 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**, considering the age of the deceased, appellants are entitled to 30% towards future prospect.

6. Per contra, learned counsel for the insurance company submits that in the facts of the present case, compensation awarded by the Tribunal is just and proper and does not call for any interference by this Court.

7. I have considered the rival submissions of the parties and perused the record.

8. The submission of learned counsel for the appellants with respect to deduction from salary of the deceased has substance as the amount paid by the deceased towards housing loan cannot be deducted and, accordingly, this Court holds that the compensation shall be computed by adding the amount paid by the deceased towards housing loan. Thus, Rs.12,710/- per month as income of the deceased shall be taken for the purpose of computing compensation in place of Rs.7,559/-.

9. Appellants have established that deceased was a government employee and, therefore, appellants/claimants are also entitled to 30% towards future prospect on the income of the deceased. Accordingly, this Court awards 30% towards future prospect on the income of the deceased.

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

11. For the reasons given above, the appeal is **partly allowed** and the award of the Tribunal is modified to the extent indicated above. The insurance company is directed to pay the enhanced amount of compensation to the appellants/claimants within a period of three months from today. There shall be no order as to costs.

Order Date :- 28.10.2023

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