

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 1208 of 2006

Appellant :- Smt. Prama Gandhi And Others

Respondent :- Shiv Kumar Sapra Since Deceased and Others

Counsel for Appellant :- Gaurav Kakkar, Amitanshu Gour, Arvind Srivastava

Counsel for Respondent :- Amaresh Sinha, Amaresh Sinha

Hon'ble Saral Srivastava, J.

Order on Civil Misc. Delay Condonation Application No.12 of 2023.

Heard learned counsel for the appellants.

The appellants have shown sufficient cause for the delay in filing the substitution application in the affidavit filed in support of the delay condonation application.

The delay in filing the substitution application is condoned.

The delay condonation application is **allowed**.

Order on Civil Misc. Substitution Application No.13 of 2023.

Heard learned counsel for the appellants and learned counsel for the respondents.

The present substitution application has been filed by the heirs of appellant No.4-Smt. Raj Rani Gandhi who died on 25.12.2020, for substituting the words 'since deceased' after the name of appellant No.4-Smt. Raj Rani Gandhi, as the legal heirs of appellant No.4 are already on record.

Learned counsel for the respondents states that he has no objection

in case the substitution application is allowed.

Consequently, the substitution application is **allowed**.

Let necessary correction/substitution be incorporated in the array of parties during the course of day.

Order on Appeal.

1. Heard learned counsel for the appellants and learned counsel for the respondents.
2. The claimants/appellants being dissatisfied with the quantum of compensation have preferred the present appeal with a prayer for enhancement of compensation.
3. Learned counsel for the claimants/appellants has contended that no amount towards future prospect has been awarded by the Tribunal whereas considering the age of the deceased, claimants/appellants are entitled to 30% 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**. It is further submitted that considering the dependents upon the deceased, 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**, Tribunal should have deducted 1/4th towards personal expenses of the deceased instead of 1/3rd.
4. Per contra, learned counsel for the respondents has contended that compensation awarded by the Tribunal is just and proper.
5. I have considered the rival submissions of the parties and perused the record.

6. The submission of learned counsel for the claimants/appellants in respect of future prospect has got force in view of the judgment of Apex Court in the case of **Pranay Sethi (supra)** and thus, following the aforesaid judgment of Apex Court and considering the age of the deceased, claimants/appellants are entitled to 30% towards future prospect.

7. So far as the submission of learned counsel for the claimants/appellants with regard to deduction of 1/4th towards personal expenses is concerned, the same has substance in view of the judgment of Apex Court in the case of **Sarla Verma (supra)**. Thus, it is provided that 1/4th should be deducted towards personal expenses of the deceased instead of 1/3rd on the entire amount of compensation.

8. 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.

9. 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 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 a certified copy of this order. There shall be no order as to costs.

Order Date :- 13.10.2023
R.S. Tiwari