

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 131 of 2005

Appellant :- Chatar Singh

Respondent :- M/S Agrawal Traders Thru Kali Ram And Ors.

Counsel for Appellant :- Shreeprakash Singh

Counsel for Respondent :- Arun Kumar Shukla, Kuldeep Shanker
Amist

Hon'ble Saral Srivastava, J.

1. Heard learned counsel for the claimant/appellant and learned counsel for the respondents.

2. The present appeal has been filed by the claimant/appellant for enhancement of award dated 29.09.2004 passed by the Motor Accident Claims Tribunal/Additional District Judge, Court No.2, Saharanpur passed in M.A.C.P. No.130 of 1999 whereby Tribunal has awarded a lump-sum Rs.1,00,000/- alongwith 6% interest as compensation to the claimant.

3. Challenging the award, learned counsel for the appellant has submitted that Tribunal has erred in law in not assessing the income of the deceased whereas deceased was employed at Kailash Hospital, Delhi and used to earn Rs.2700/- per month. It is contended that even if there was no proof of income of the deceased, as the accident had taken place in the year 1999, the Tribunal ought to have taken at least Rs.1500/- per month i.e. Rs.18,000/- per annum as income of the deceased in computing the compensation. It is further submitted that no amount towards future prospect has been awarded by the Tribunal whereas considering the age of the deceased i.e 28 years, claimant is entitled to 40% 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 Tribunal has not applied multiplier in computing the compensation whereas considering the age of the deceased, Tribunal should have applied the multiplier of 17 in computing the compensation in view of the judgement of Apex Court in the case of ***Sarla Verma and others Vs. Delhi Transport Corporation and others 2009 (6) SCC 121***. It is also urged that Tribunal has not awarded any amount towards non-pecuniary damages whereas considering the fact that the accident had taken

place in the year 1999 and young son of claimant aged 28 years has died, it should have awarded at least Rs.20,000/- to the claimant towards non-pecuniary damages.

4. Per contra, learned counsel for the respondents submits that compensation awarded by the Tribunal is just and proper as there was no proof of income of the deceased on record and hence, the same does not call for interference by this Court in the appeal. It is further submitted that deceased was bachelor and therefore, Tribunal should have deducted half towards the personal expenses of the deceased in view of the judgment of the Apex Court in the case of **Sarla Verma (supra)** in computing the compensation.

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

6. The submission of learned counsel for the claimant/appellant in respect of assessment of income of the deceased has substance. Accordingly, it is provided that Tribunal should have taken the income of the deceased to be Rs.18,000/- per annum for the purpose of computation of compensation.

7. The submission of learned counsel for the claimant/appellant in respect of non-granting any amount towards future prospect has also got force in view of the judgement of Apex Court in the case of **Pranay Sethi (supra)** and thus, this Court awards 40% towards future prospect to the claimant.

8. So far as the submission of learned counsel for the claimant/appellant in respect of application of multiplier is concerned, the said submission is supported by the judgement of Apex Court in the case of **Sarla Verma (supra)** and thus, it is provided that enhanced amount of compensation should be computed by applying the multiplier of 17.

9. The submission of learned counsel for the claimant/appellant with regard to compensation towards non-pecuniary damages has also got substance. Thus, this Court holds that the claimant/appellant is also entitled to Rs.20,000/- towards the aforesaid head.

10. The submission of learned counsel for the respondents with regard to deduction of half towards personal expenses of the deceased in view of the judgement of Apex Court in the case of **Sarla Verma (supra)** has got substance. Thus, it is provided that half should be deducted towards personal expenses of the deceased

from the income of the deceased for computation of compensation.

11. 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.

12. 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 claimant/appellant 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 :- 31.10.2023

Sattiyarth