

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 880 of 1998

Appellant :- Smt. Somwati And Anr

Respondent :- Shri Laxmi Narain And Ors

Counsel for Appellant :- Anil Kumar Sharma

Hon'ble Saral Srivastava,J.

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

2. The present appeal has been filed by the appellants/claimants for enhancement of compensation.

3. Learned counsel for the claimants/appellants has urged that no amount towards future prospect has been awarded to the claimants/appellants whereas they are also entitled to 40% towards future prospect in view of the judgment of Apex Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi and Others 2017 (16) SCC 680***. It is further contended that Tribunal has erred in applying the multiplier of 17 though the Tribunal in the present case should have applied the multiplier of 18 considering the age of the deceased. It is further submitted that that there were four dependents upon the deceased, therefore, considering the judgment 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. It is further submitted that the claimant is also entitled compensation towards loss of state which has not been awarded by the Tribunal.

4. Per contra, learned counsel for the respondents submits that

compensation awarded by the Tribunal is just and proper and does not call for any interference by this Court in appeal.

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

6. The submission of learned counsel for the appellant/claimant in respect of future prospect has got force. Thus, following the aforesaid judgment of Apex Court in the case of ***Pranay Sethi (supra)*** and considering the age of the deceased, claimants/appellants are entitled to 40% towards future prospect.

7. The submission of learned counsel for the claimants/appellants in respect of wrong application of multiplier has also substance in view of the judgment of Apex Court in the case of ***Sarla Verma (supra)***. Thus, it is provided that compensation should be computed by applying the multiplier of 18 instead of 17.

8. The submission of learned counsel for the claimants/appellants with regard to deduction of 1/4th towards personal expenses of the deceased in view of the judgment of Apex Court in the case of ***Sarla Verma (supra)*** has got substance. Thus, considering the dependents upon the deceased, it is provided that 1/4th should be deducted towards personal expenses of the deceased instead of 1/3rd from the income of the deceased for computation of compensation.

9. This Court also finds substance in the argument of learned counsel for the claimants/appellants that no amount towards loss of state has been awarded by the Tribunal, and accordingly, this Court deems it fit to award Rs.10,000/- towards loss of state to the claimants.

10. 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.

11. For the reasons given above, the appeal is partly ***allowed*** and award of the Tribunal is modified to the extent indicated above. 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 :- 26.10.2023

R.S. Tiwari