

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 1803 of 2001

Appellant :- Smt Sahdaiya And 5 Others

Respondent :- Dayashanker Shivahare And Others

Counsel for Appellant :- Ram Singh

Counsel for Respondent :- Sushil Kumar Mehrotra

Hon'ble Saral Srivastava,J.

1. Heard learned counsel for the claimants-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 urged that accident had taken place on 19.04.2000 and the deceased was labour and it is common knowledge that in the year 2000, the income of a person involved in labour work in the year 2000 was not less than Rs.2000/- per month, and therefore, the Tribunal should have taken the income of the deceased to be Rs.2,000/- per month i.e. Rs.24,000/- per annum for computing the compensation. It is further submitted that the claimants/appellants are also entitled to 40% towards future prospect considering the age of the deceased 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 there were five dependents upon the deceased, therefore, considering 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. It is further submitted that Tribunal has erred in applying the multiplier of 14 whereas considering the age of the deceased, Tribunal should have applied the multiplier of 15 in view of the judgment of the Apex Court in the case of **Sarla Verma (supra)** in computing the compensation.

4. Per contra, learned counsel for the respondents submits that the compensation awarded by the Tribunal is just and proper.

5. Be that as it may, the submission of learned counsel for the claimants/appellants in respect of assessment of income of the deceased has substance and accordingly, it is provided that Tribunal should assess compensation by taking the income of the deceased to be Rs.24,000/- per annum instead of Rs.15,000/- per annum for the purpose of computation of compensation.

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, considering the age of the deceased, claimants/appellants are entitled to 40% 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. The submission of learned counsel for the claimants/appellants

with regard to wrong application of multiplier is supported by the judgement of Apex Court in the case of **Sarla Verma (supra)** and thus, it is provided that entire amount of compensation should be computed by applying the multiplier of 15 instead of 14.

9. 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.

10. 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 :- 17.10.2023

R.S. Tiwari