

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 203 of 2000

Appellant :- Smt.Arzoo Begum And Another

Respondent :- Oriental Insurance Co.Ltd.And Others

Counsel for Appellant :- Rakesh Kumar Porwal

Counsel for Respondent :- Dharmendra Kumar

Hon'ble Saral Srivastava,J.

1. Heard learned counsel for the appellants and Sri Dharmendra Kumar, 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. Challenging the award, learned counsel for the appellants has contended that the Tribunal has assessed the income of the deceased to be Rs.3000/- per month, however, for the purpose of dependency, the Tribunal took the income of the deceased to be Rs.1300/- per month. It is submitted that as per the law laid down by the Apex Court in the case of **Sarla Verma and others Vs. Delhi Transport Corporation and others 2009 (6) SCC 121**, considering the dependents upon the deceased, the Tribunal should have deducted 1/3rd from the income of deceased towards the personal expenses of the deceased and the balance amount should have been treated as the amount of dependency of the family on the income of the deceased. It is further submitted that no amount towards future prospect has been awarded by the tribunal whereas, considering the age of the deceased, the claimants/appellants are 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.

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. Be that as it may, the Apex Court in the case of **Sarla Verma (supra)** has held that in case of three dependants 1/3rd shall be deducted from the income of the deceased. In the instant case, there are two dependents upon the deceased, and therefore, the Tribunal should have deducted 1/3rd towards personal expenses from the income of the deceased, and accordingly, this Court holds that the Tribunal has erred in law in taking the dependency of the family on the income of the deceased to be Rs.1300/- per month. Accordingly, it is held that the Tribunal shall compute the compensation by deducting 1/3rd towards personal expenses of the deceased on the income of the deceased which has been assessed by the Tribunal to be Rs.3000/-.

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, claimants/appellants are entitled to 40% towards future prospect considering the age of the deceased.

7. It is also provided that enhanced amount of compensation shall carry 6% simple interest from the date of institution of claim petition till its payment.

8. For the reasons given above, the appeal is **partly allowed** and award of the Tribunal is modified to the extent as indicated above.

The insurance company is directed to pay the enhanced amount of compensation to the claimants/appellants within a period of three months. There shall be no order as to cost.

Order Date :- 6.11.2023

R.S. Tiwari