

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 2238 of 2004

Appellant :- Satyam Singh

Respondent :- Rajendra Singh Bhadauriya And Another

Counsel for Appellant :- Ram Singh

Counsel for Respondent :- Lakshami Kant Dwivedi, Subhash Chand Srivastava

Hon'ble Saral Srivastava, J.

1. Heard learned counsel for the appellant and learned counsel for the respondents.
2. The present appeal has been filed by the claimants/appellants for enhancement of compensation.
3. Learned counsel for the claimant/appellant has contended that accident had taken place on 09.05.2001 and the claimant/injured was a student. It is submitted that even if there was no proof of income of claimant/injured, the Tribunal ought to have taken at least Rs.2500/- per month i.e. Rs.30,000/- per annum for computing the compensation. It is submitted that no amount towards future prospect has been awarded by the Tribunal whereas considering the age of the claimant/injured, he is entitled to 40% towards future prospect in view of the judgement of Apex Court in the case of **Pappu Deo Yadav Vs. Naresh Kumar & Others AIR 2020 SC 4424**. It is further submitted that a very meagre amount of Rs.5,000/- towards pain and suffering has been awarded by the Tribunal whereas considering the nature of injury suffered by the claimant/injured, the Tribunal ought to have

awarded at least Rs.25,000/- towards pain and suffering. Lastly, he further urged that the Tribunal has erred in law in deducting 1/3rd towards personal expenses of claimant/respondent.

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 claimant/injured and appeal of the claimants/appellants deserves to be dismissed.

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 claimant/injured has substance. Accordingly, it is provided that Tribunal should have taken the income of the claimant/injured to be Rs.30,000/- per annum instead of Rs.15,000/- for the purpose of computation of compensation.

7. The submission of learned counsel for the claimants/appellants in respect of future prospect has got force in view of the judgement of Apex Court in the case of **Pappu Deo Yadav (supra)** and thus, following the aforesaid judgement of Apex Court, claimant/appellant is entitled to 40% towards future prospect.

8. So far as the submission of learned counsel for the claimants/appellants in respect of deduction 1/3rd towards personal expenses of the claimant has got force. Accordingly, the Court holds that the compensation should

be computed without deducting any amount towards the personal expenses of the claimant.

9. The submission of learned counsel for the claimant/appellant with regard to compensation towards pain and suffering has also got substance. Accordingly, this Court holds that the claimant/injured is entitled to Rs.25,000/- towards pain and suffering in place of Rs.5000/-.

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. 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 :- 16.10.2023
SS