

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 256 of 2005

Appellant :- Smt. Umarawati Singh And Others

Respondent :- Kunwar Pal Singh And Others

Counsel for Appellant :- Ashok Kumar Pandey, Rishi Bhushan Jauhari, Shiv Vilas Mishra, Vinod Kumar Sharma

Counsel for Respondent :- Smt Archana Singh, Tripurari Pal

Hon'ble Saral Srivastava, J.

1. Heard learned counsel for the appellants.
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 the Tribunal has erred in law in deducting 25% from the compensation for the negligence of driver of truck No.UP13 B- 0798. It is further submitted that no amount towards future prospect has been awarded by the Tribunal whereas considering the age of the deceased 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**, claimants/appellants are entitled to 15% towards future prospect. It is further submitted 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.
4. Be that as it may, it was a case of composite negligence as the deceased was travelling in the jeep, and therefore, in view of the judgment of Apex Court in the case of **Khenyei Vs. New India Assurance Company Limited and others (2015) 9 SCC 273**, the

Tribunal has erred in deducting 25% from the compensation for the negligence of driver of jeep in the accident. Thus, the submission of learned counsel for the appellants/claimants has merit and accordingly, it is held that the deduction of 25% from the compensation is illegal. Thus, claimants are entitled to entire compensation. However, it is provided that the liability of respondent No.3 under the award is 75% and liability of respondent No.4 is 25%.

5. 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 15% towards future prospect considering the age of the deceased.

6. The submission of learned counsel for the claimants/appellants with regard to deduction of 1/4th towards personal expenses of the deceased 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 enhanced amount of compensation.

7. 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.

8. 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 respondent No.3 and respondent No.4 are directed to pay the enhanced amount of compensation to the claimants/appellants in proportion to their liability held above

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 :- 30.10.2023

R.S. Tiwari