

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 3575 of 2004

Appellant :- Smt. Seema And Others

Respondent :- United India Insurance Co. Ltd. And Others

Counsel for Appellant :- P.K.Agarwal,Ram Singh

Counsel for Respondent :- Rajeev Ojha

Hon'ble Saral Srivastava,J.

1. List has been revised. Learned counsel for the appellants is present. Learned counsel for the respondents is not present.

2. Heard learned counsel for the appellants.

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

4. Learned counsel for the claimants/appellants has contended that the accident had taken place in the year 2003, and therefore, the tribunal has erred in law in assessing the compensation holding the income to be Rs.15,000/- per annum. It is submitted that at the relevant time, income of a person involved in dairy business was not less than to Rs.2500/- per month i.e. Rs.30,000/- per annum, and accordingly, it is submitted that the award of compensation is on lower side, and therefore, tribunal should have computed the compensation by taking the income of the deceased to be Rs.30,000/- per annum. It is further submitted that considering the age of the deceased, the claimants/appellants 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 submitted that there were five 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**, the Tribunal should have deducted 1/4th towards personal expenses of the deceased instead of 1/3rd.

5. Per contra, learned counsel for the respondents submits that compensation awarded by the Tribunal is just and proper and based on proper appreciation of facts and does not call for any interference by this Court in appeal.

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

7. The accident is stated to have taken place in the year 2003. It is a common knowledge that in the year 2003, even the income of a person involved in dairy business was Rs.2500/- per month i.e. Rs.30,000/- per annum. Considering the said fact, this Court holds that the compensation should be computed by taking the income of the deceased to be Rs.30,000/- per annum in place of Rs.15,000/-.

8. The submission of learned counsel for the claimants/appellants in respect of future prospect has also 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.

9. 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.

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 as indicated above. Insurance company is directed to pay the enhanced amount of compensation to the appellant/claimant within a period of three months. There shall be no order as to cost.

Order Date :- 30.10.2023

R.S. Tiwari