

Court No. - 2

Case :- FIRST APPEAL FROM ORDER DEFECTIVE No. - 1142 of 2009

Appellant :- Shabnam And Others

Respondent :- Arush Katting And Others

Counsel for Appellant :- Bhanu Prakash Verma, Santosh Kumar Singh

Counsel for Respondent :- Parv Agarwal

Hon'ble Saral Srivastava, J.

Order on Civil Misc. Delay Condonation Application No. 216813 of 2011.

Heard learned counsel for the appellants.

The appeal is reported to be beyond time by 5 days.

The appellants have filed the present delay condonation application praying for condonation of delay in filing the appeal.

The appellants have explained the delay in filing the appeal in paragraphs 2 to 4 of the affidavit filed in support of delay condonation application.

I have perused the affidavit filed in support of the delay condonation application.

The appellants have properly explained the delay in filing the appeal and delay in filing the appeal is bona fide.

Consequently, the delay in filing the appeal is condoned and the appeal shall be treated to have been filed in time.

The delay condonation application is ***allowed***.

Order on Appeal

1. Heard learned counsel for the appellants 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 claimants-appellants has submitted that the accident had taken place on 09.07.2003 and the Tribunal has erred in computing the compensation treating the income of the deceased to be Rs.15,000 per annum. Accordingly, it is submitted that Tribunal should have taken Rs.36,000/- per annum as income of the deceased for computing the compensation in view of the judgement of Apex Court in the case of ***Laxmi Devi and Others Vs. Mohammad Tabbar and Another, 2008 AICC 915 (SC)***. 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 has contended that the compensation awarded by the Tribunal is just and proper. It is further submitted that Tribunal has erred in law in applying the multiplier of 18 whereas considering the age of the deceased, Tribunal should have applied the multiplier of 17 in view of the judgement of the Apex Court in the case of ***Sarla Verma and others Vs. Delhi Transport Corporation and others 2009 (6) SCC 121*** in computing the compensation.

5. I have considered the rival submissions of the parties and

perused the record.

6. The Apex Court in the case of ***Laxmi Devi (supra)*** has held the notional income to be Rs.3000/- per month i.e. Rs.36,000/- per annum and thus, accepting the submission of learned counsel for the claimants/appellants in view of the judgement of Apex Court in the case of ***Laxmi Devi (supra)***, it is provided that the income of the deceased should be taken to be Rs.36,000/- per annum in place of Rs.15,000/- for the purpose of computation of compensation.

7. The submission of learned counsel for the appellants/claimants in respect of future prospect has also got force in view of the judgement of Apex Court in the case of ***Pranay Sethi (supra)*** and thus, following the aforesaid judgement of Apex Court, the claimants/appellants, considering the age of the deceased, are entitled to 40% towards future prospect.

8. So far as the submission of learned counsel for the respondents with regard to wrong application of multiplier is concerned, the said submission 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 17 instead of 18.

9. 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.

10. 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 :- 13.10.2023

A. Prajapati