

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No(s). 7332/2011

ASHOK KUMAR UPADHAYAYA & ANR.

Appellant(s)

VERSUS

DR. D.N.MISHRA (PROFESSOR) & ORS.

Respondent(s)

O R D E R

1. The appellant is before this Court seeking enhancement of the compensation as against the sum awarded by the National Consumer Disputes Redressal Commission (*for short 'NCDRC'*) through its order dated 02.02.2011 passed in Original Petition No.5 of 1998. In respect of the claim made by the appellants herein who are the parents of the deceased patient, the NCDRC, having taken into consideration all aspects of the matter, has held that the appellants are entitled to compensation and had awarded a total compensation amounting to Rs.11,00,000/- under different heads separately to the appellant nos.1 and 2 as hereunder:-

1.	Expenses of treatment and other attendant costs.	Rs.1,00,000/-
2.	Compensation due to death of the child	Rs.600,000/-
3.	To appellant no.1 for mental trauma and agony	Rs.2,00,000/-
4.	To appellant no.1 for mental trauma and agony	Rs.2,00,000/-
	Total Compensation	Rs. 11,00,000/-

2. Having heard the learned counsel for the parties and having perused the appeal papers and also considering the fact that the finding relating to negligence has attained finality, the issue left for consideration is only with regard to the appropriate quantum of compensation.

3. On the head such as 'treatment and attendant cost' as also 'mental trauma and agony', as awarded by the NCDRC, we see no reason to interfere.

4. The only aspect which arises for consideration is the compensation that was awarded towards the death of the child. In that regard, we take note that the deceased was a student who was studying in 10th standard at the time of the incident and it is the claim of the appellants that the deceased was a bright student and had desired to pursue his higher

education in Engineering. It is no doubt true that as it has been repeatedly held by this Court, at that age, where the deceased was, the future life is filled with several uncertainties and the 'loss of dependency' in the conventional method cannot be arrived at.

5. Be that as it may, taking note that the incident had occurred in the year 1996 and even in the peculiar circumstances which are arising in the instant facts if, a notional income was to be taken as on that year and thereafter, the appropriate calculation towards compensation is to be made, the amount of Rs.6,00,000/- awarded towards that head is on the lower side. Therefore, in the facts and circumstances of the case, we deem it appropriate to enhance the compensation by a round figure of Rs. 8,50,000/- which shall be in addition to the amount which has already been awarded by the NCDRC. The said amount of Rs. 8,50,000/- shall be paid by the respondent nos. 1,2 and 3 jointly and severally to the appellants within a period of six weeks from the date of the receipt of a copy of this judgment.

6. The learned counsel for the appellants shall furnish the bank details of the appellant no.1, to

which the enhanced compensation amount shall be transferred in full and final settlement of the claim put forth by the appellants.

7. In terms of the above, the appeal stands disposed of along with pending application(s), if any.

.....J.
(A.S. BOPANNA)

.....J.
(DIPANKAR DATTA)

New Delhi
20th April, 2023

ITEM NO.102

COURT NO.12

SECTION XVII-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G SCivil Appeal No(s). 7332/2011

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Date : 20-04-2023 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.S. BOPANNA
HON'BLE MR. JUSTICE DIPANKAR DATTAFor Appellant(s) Mr. Dipak K. Nag, Adv.
Mr. Parijat Sinha, AOR
Mr. Devesh Mishra, Adv.
Ms. Reshmi Rea Sinha, Adv.
Ms. Pallak Bhagat, Adv.For Respondent(s) Mr. Sunil Kumar Jain, AOR
Ms. Rashika Swarup, Adv.

Dr. Meera Agarwal, AOR
Mr. Ramesh Chandra Mishra, Adv.UPON hearing the counsel the Court made the following
O R D E RThe appeal stands disposed of along with pending
application(s), if any in terms of the signed order.(NISHA KHULBEY)
SENIOR PERSONAL ASSISTANT(DIPTI KHURANA)
ASSISTANT REGISTRAR

(signed order is placed on the file)