

Bir Chand and ors. Vs. Gurdev Singh and ors.

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Court : Allahabad

Decided On : Feb-07-1986

Reported in : 2(1986)ACC157

Judge : Om Prakash, J.

Appellant : Bir Chand and ors.

Respondent : Gurdev Singh and ors.

Advocate for Def. : Sri. T.P. Singh

Judgement :

Om Prakash, J.

1. This appeal arises from the award passed by the I Additional Motor Accident Claims Tribunal, Meerut dated 29th November, 1977 awarding a total compensation aggregating Rs. 7,500/- for the death of the wife of Vir Chand, claimant No. 1. The remaining claimants are the children of the deceased. The deceased Smt. Phool Wati while travelling on 13th July, 1973 in a Bainsa Buggi on Muzaffarnagar-Meerut road, had met a fatal accident at about 5 p.m. with the Truck No. USP 3577 coming from Muzaffarnagar side which hit the Buggi from the rear. The claimants averred that the truck-driver was rash and negligent in driving. The Tribunal accepting the case of the claimants, that the accident was caused by rash and negligent driving, awarded Rs. 4500/- towards loss for the assistance the

deceased would have rendered in agricultural operation and a sum of Rs. 3000/- was awarded for the loss of society.

2. I have heard Sri H.P. Goyal, learned Counsel for the claimants and Sri T.P. Singh, learned Counsel for the respondents. The sole objection of Sri Goyal is that the quantum of the compensation awarded by the Tribunal is wholly inadequate and without any basis. The evidence adduced before the Tribunal was that the deceased participated in the agricultural operation and that in her absence a labourer had to be engaged. The Tribunal was of the view that a labourer would not have been available at less than Rs. 125/- per month in the village. It came in the evidence that after three years of her death her son came up to the age and he became the working hand in the agricultural operation. So for three years at the rate of Rs. 125/- the compensation of Rs. 4,500/- was awarded. Sri Goyal argues that this is wholly erroneous approach of the Tribunal. He submits that the normal expectancy of life is 70 years, particularly in the region which the deceased belonged to and she would have continued working in the fields at least upto the age of 60 years. So the argument is that the prospective pecuniary loss should have been awarded till the age, the deceased was capable to do the agricultural work. Another argument is that the compensation at the rate of Rs. 125/- per month is wholly inadequate. I agree with Sri Goyal that the Tribunal was in error for awarding compensation only for three years on the ground that the son of the deceased became capable to work in the agricultural fields after three years. The son is not a substitute of the deceased. The son would have worked even if the deceased had lived. I, therefore, agree that the compensation should have been determined looking to the normal expectancy of life and the working capacity of the deceased. Even if the life expectancy is taken at 60 years, the deceased would have continued working with full vigour at least upto the age of 45 years. So the compensation should have been awarded not for three years but at least for ten years. At the rate of Rs. 1,500/- per year as worked out by the Tribunal this amount comes to Rs. 15,000/-. Compensation for loss of society has been determined at Rs. 3,000/- and that seems to be inadequate. Looking to the entirety of the circumstances, I feel that at least a sum of Rs. 5,000/- should have been awarded as compensation for loss of society. So the claimants are entitled to claim a total amount of Rs. 20,000/- instead Rs. 7,500/-.

3. The appeal is partly allowed with costs accordingly. The claimants will be entitled to interest at the rate of 6% per annum from the date of award till the date of realisation of the aforesaid amount.

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