

Phool Bai and ors. Vs. South Eastern Coalfields Ltd. and anr.

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Court : Madhya Pradesh

Decided On : Aug-23-1999

Reported in : 2000ACJ1549

Judge : D.M. Dharmadhikari and ;Usha Shukla, JJ.

Appeal No. : M.A. No. 649 of 1997

Appellant : Phool Bai and ors.

Respondent : South Eastern Coalfields Ltd. and anr.

Advocate for Def. : N.S. Ruprah and ;N.B. Kale, Adv.

Advocate for Pet/Ap. : S.K. Agrawal, Adv.

Judgement :

Usha Shukla, J.

1. The claimants are the widow and five children of deceased Rasai who died in an automobile accident on 6.11.1979. Respondent No. 1 was the owner, respondent No. 2 was the driver and respondent No. 3 was the insurer of the offending vehicle.

2. The Tribunal found negligence of the driver proved. It also held that claimants were dependent on the income of the deceased. But it awarded a lump sum of Rs.

20,000 as compensation as against a claim of Rs. 5,40,000. The adequacy of this award is challenged in this appeal.

3. Deceased aged 45 years was in business of fish and was earning Rs. 60 per day as per the statement of his widow Phool Bai. The income of the deceased may be taken to be Rs. 1,500 per month on the basis of the evidence on record. He had a wife and five minor children to support. The dependency of the claimants is, therefore, taken to be Rs. 1,000, i.e., Rs. 12,000 per annum. To this a multiplier of 13 is applied; the compensation comes to Rs. 1,56,000. To this a sum of Rs. 2,000 is added towards funeral expenses and Rs. 5,000 towards loss of consortium and Rs. 2,500 as loss to estate, the total compensation comes to Rs. 1,65,500 which, in the circumstances of the case would be just and proper. Thus the appellants are entitled to get Rs. 1,65,500 with interest at the rate of 12 per cent per annum from the date of application till realisation.

4. Respondents are directed to deposit the amount less the amount already deposited within a period of two months from the date of supply of certified copy of this order failing which the amount shall carry interest at the rate of 15 per cent per annum. On deposit the amount shall be disbursed to the claimants keeping in mind the well settled guidelines laid down by the Apex Court.

5. The award of the Tribunal shall be substituted as indicated hereinabove. Counsel's fee Rs. 1,000, if pre-certified.

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