

Kamla and ors. Vs. Durga and ors.

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Court : Madhya Pradesh

Decided On : Nov-20-2003

Reported in : 2005ACJ1497

Judge : S.S. Jha and ;A.K. Shrivastava, JJ.

Appeal No. : M.A. No. 442 of 1999

Appellant : Kamla and ors.

Respondent : Durga and ors.

Advocate for Def. : M.P. Agrawal, Adv.

Advocate for Pet/Ap. : Arun Sharma, Adv.

Disposition : Appeal allowed

Judgement :

S.S. Jha and A.K. Shrivastava, JJ.

1. This appeal is for enhancement of compensation awarded by the Claims Tribunal.

2. Counsel for respondents has supported the award.

3. Findings on the other issues are not under challenge in this appeal. Appeal is confined to enhancement of compensation only.

4. The counsel for the appellants submitted that he has led evidence regarding income of the deceased Om Narayan. AW 1, Kamla Pachoriya has deposed that Om Narayan used to earn Rs. 4,500 per month. Similarly, AW 3 Santosh Kumar deposed that he was paying Rs. 4,500 per month to deceased Om Narayan. This witness is cross-examined but no suggestion is given to him regarding income of the deceased. However, AW 1 Kamla Pachoriya has not been cross-examined on the question of income of the deceased.

5. When witnesses have deposed that deceased was earning Rs. 4,500 per month, finding of Claims Tribunal that the income of the deceased was Rs. 2,500 per month is set aside as it is contrary to evidence on record. Claims Tribunal has presumed the monthly income of deceased without any material on record. Therefore, we hold that income of deceased was Rs. 4,500 per month, i.e., Rs. 54,000 per year. Deceased was 31 years of age. Since, the income of deceased was determined at Rs. 54,000 per year, the dependency is determined at Rs. 36,000 and to this figure multiplier of 17 is applied considering the age of the deceased. Thus, claimants are entitled for Rs. 6,12,000 and further sum of Rs. 18,000 under various heads such as loss of consortium and funeral expenses, etc. Total sum payable to claimants is Rs. 6,30,000. Over and above this amount, appellants shall be entitled for interest at the rate of seven per cent on the enhanced amount of compensation from the date of award.

6. Appellant Nos. 2 to 6 are minors. Therefore, we direct that the amount of compensation be deposited in a nationalised bank and claimants will be entitled for monthly interest.

7. The appeal succeeds and is allowed with no order as to costs.