

Teeja Vs. Ram Ratan and ors.

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SooperKanoon Citation : sooperkanoon.com/764853

Court : Rajasthan

Decided On : Aug-21-1984

Reported in : 2(1985)ACC299

Judge : Guman Mal Lodha, J.

Appellant : Teeja

Respondent : Ram Ratan and ors.

Judgement :

Guman Mal Lodha, J.

1. Although no one has appeared for the appellant but, since this is an accident claims case, I would not like to dismiss the appeal in default, I have, therefore, examined the appeal on merits and I find much substance in it.

2. Gopal Balai died on account of the accident when truck No. RSL 785 which was being driven by Mohammad Yunus, dashed against him. As alleged, the truck was being driven rashly and negligently. Gopal Balai was 22 years of age and was healthy person. A claim of Rs. 90,000/- was made. The Tribunal has held that Gopal the deceased was giving Rs. 100/- to his mother and though he was earning 15 rupees per day, Gopal the deceased was stitching pairs of shoes, and was a shoe-maker.

3. The Tribunal, on the basis that he was giving share of Rs. 100/- per month to his mother, held that Gopal, the deceased, would have married in future and he must have given something even after marriage. The Tribunal arbitrarily calculated Rs. 1,000/- per year and then fixed the compensation to Rs. 20,000/- but reduced it to Rs. 5,000/- on the surmises that he would have married and because the amount is given in lump sum. An amount of Rs. 2,000 was awarded for mental agony the parents.

4. Shri Bhargava, appearing for the Insurance Company has supported the finding of the Tribunal.

5. I am of the opinion that the finding of Tribunal is wholly erroneous. Assuming that the income benefit which the parents would have got from Gopal-deceased, would not have been more than Rs. 1,000/- per year and assuming that for 20 years, this income would have been there, the amount of Rs. 20,000/- should have been awarded. The deduction for lump sum payment is not premissible because as held by Delhi Rajasthan and Andhra Pradesh High Courts in Satya Wati Pathak v. Hari Ram 1983 ACJ 425 and S. Puri v. RSRTC 1983 ACJ 489 and S. Devastanam v. B. Pramillamma 1983 ACJ 580 the prices are increasing every day of all commodities and the sufficient time is taken in settlement of the decision and in payment of compensation depriving the dependents of the deceased from the payments of compensation. There is no justification reducing Rs. 20,000/- any further.

6. The appeal, is, therefore, accepted. The amount of compensation is increased from Rs. 7,000/- to Rs. 22,000/- alongwith the cost of Rs. 250/- which was allowed by the Tribunal, to Rs. 500-. In the interest of justice, the interest is also increased from 6% to 12% from the date of the application till the date of realisation. The impugned award is modified to the above extent.

7. Since no one has appeared for appellant, the parties would bear their own costs in this appeal.