

22.05.2024

Present: Ld. counsel for plaintiffs.
Ld. counsel for defendant no. 1 with defendant no. 1 in person.
Ld. Counsel for proposed defendant namely Fruit & Vegetable Seller Aadti Samiti.
None for the other proposed defendant i.e. APMC.

1. In this matter, plaintiffs have sought compensation on account of the fact that one Sarvesh died because of the rash and negligent act committed by Shahrukh who was driving a tonga in the vegetable market being run by proposed defendant no. 2 and 3.

2. Perusal of file shows that the plaintiffs had sought permission to continue with the suit as an indigent person. As per record, such permission is yet to be granted in favour of plaintiffs.

3. In the present case, plaintiff is seeking compensation to the tune of Rs.50 lacs for the death of his wife, which as per him was a result of the negligent act of the defendant no. 1.

4. As far as the application for indigency is concerned, a report was called from the concerned SDM as per which, plaintiff no. 1 is possessed with a house measuring 25 square yards and earns Rs.10,000/- per month as a plumber.

5. As per record, plaintiff no. 1 has five minor children to support who are stated to be school going.

6. The prayer for indigency is opposed by the counsel for defendant no.1 who claims that as per his information, plaintiff no. 1 is having land in Aligarh and he works as a supervisor and not as a plumber.

7. As far as the objection of defendant no.1 is concerned, suffice is to say that while considering an application for indigency, it is the court's satisfaction to the effect that the plaintiff does not have sufficient means to pay the court fees on the plaint. There is no role of the defendant in this regard. Even otherwise, except for a bald assertion, there is nothing on record to suggest that the plaintiff has sufficient means to pay the court fees. Thus, considering the report of the SDM and keeping in mind the fact that plaintiff no. 1 appears to be earning Rs.10,000/- per month only with other plaintiffs no. 2 to 6 being school going children, in my humble opinion, it appears that plaintiffs do not have sufficient means to pay prescribed court fees on the sum of Rs.50 lacs claimed as compensation in this case. Accordingly, they are allowed to sue as indigent persons. Application under Order XXXIII Rule 1 CPC is accordingly disposed off.

8. It is pertinent to note that while the suit was initially filed against five defendants, four defendants i.e. defendant no. 2 to 5 were deleted vide order dated 25.05.2023.

9. Perusal of record shows that while the proposed defendant i.e. Fruit & Vegetable Seller Aadi Samiti has been served with the application for impleadment, the proposed defendant APMC is yet to be served with the said application. Let fresh notice of the said application be sent to the said proposed defendant on filing of process/RC/speed post returnable for 31.07.2024.

10. At this stage, counsel for the plaintiffs submits that considering his impleadment application moved on 07.12.2023, he is not pressing his another impleadment application filed on 03.07.2023. Accordingly, impleadment application filed on 03.07.2023 is dismissed as withdrawn.

11. Plaintiffs are directed to file a fresh memo of parties wherein the factum of deletion of earlier defendant no. 2 to 5 is reflected.

AASHISH GUPTA
DJ-01/NE/KKD/DELHI
22.05.2024