

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil First Appeal No. 225/2024

Ajmer Vidyut Vitran Nigam Ltd.

----Appellant

Versus

Reshma D/o Shri Ramsaran W/o Shri Sunil

----Respondent

For Appellant(s) : Mr. Ishan Kumawat

For Respondent(s) : Mr. Upendra Singh Rathore

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

08/05/2024

1. Application No. 2/2024 is filed under Order XLI Rule 27 CPC for taking decree and a copy of application on record.
2. A perusal of record clearly indicated that in a suit filed under the Fatal Accident Act, trial court on 07.11.2023 has directed the claimants to pay court fee and after payment of court fee directed to prepare decree in pursuant to order passed by learned trial court. A perusal of record clearly indicated that decree was prepared on 06.02.2024 and this is subsequent event after filing of instant appeal on 24.01.2024, hence application is allowed and document as submitted with the application are taken on record.
3. Let decree be part of impugned order.
4. Misc. application stands disposed of.
5. Considered the application No. 01/2024 for modification of order dated 15.02.2024, this court has recorded the statement of learned counsel for appellant based on the order passed by the trial court.

6. A fact is quite apparent on record that initially the suit was filed to claim compensation for injuries sustained by the injured under the Fatal Accident Act and the suit is not maintainable under the Fatal Accident Act to claim compensation for injuries sustained by any injured. The trial court while passing the judgment has directed for payment of court fee on the basis of award which indicate that during pendency of this civil suit no court fee was paid by the plaintiffs and the suit was maintained till date of disposal only on basis of fixed court fee of ₹10/- as leviable under the Fatal Accident Act.

7. Considering aforesaid, the submissions of learned counsel for appellant cannot be considered as wrong statement, thus application for modification is hereby dismissed.

8. List on 25.07.2024 for admission.

9. Till then, interim order, if any, shall continue.

(ASHOK KUMAR JAIN),J