

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 1287-1288 OF 2001

BHAGWATI BAI

....APPELLANT

VERSUS

ESHWAR SINGH & ANOTHER

....RESPONDENTS

O R D E R

1. This appeal is directed against the impugned order dated 25.10.1999 whereby the High Court has affirmed the award dated 21.12.1998 passed by the Motor Accident Claims Tribunal.

2. The brief facts which are necessary for the disposal of the present appeal are that the appellant filed a claim petition before Motor Accident Claims Tribunal claiming a compensation for a sum of Rs. 1,50,000/- for the death of her husband. It is alleged that on 15.7.1999, claimant's husband came to meet his relatives at village Girwari from Gwalior at about 12.30 p.m. One jeep of Mahendra and Mahendra company bearing No. DL 1 C 1B-010 which was being driver rashly and negligently by the driver came behind the appellant's husband who was standing on the side of the road, hit him, as a result of which he fell down and died on the spot. The said vehicle was insured with the National Insurance Company. The

report of this incident was lodged and a case under Section 304-A was registered against the driver. A claim petition was filed by the

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appellant/widow of the deceased claiming that the deceased was a farmer having about 16 bighas of land and he used to earn Rs. 1500-1600 p.m.. The age of the deceased at the time of death was stated to be 50 years and an amount of Rs. 1,50,000/- was claimed as a compensation.

The Tribunal, after framing necessary issues and considering the matter held that the deceased had died of rash and negligent driving of the driver/accused. Thereafter, the question of compensation was considered. The Tribunal held that the claimant was not in a position to say what was the age of her husband whether 50 years or 60 years and what was the income of the husband of the deceased. Therefore, the Tribunal came to the conclusion that she has not been able to satisfactorily established the claim for compensation. However, the Tribunal awarded a sum of Rs. 50000/- towards the no fault liability with interest of 12% p.a. w.e.f. 5.9.1991 till the payment. The Tribunal also awarded a sum of Rs. 500/- towards the litigant expenditure. Aggrieved against this order, an appeal was preferred before the High Court which confirmed the award of the Tribunal. Against the order of the High Court, present appeal has been preferred.

We have heard learned counsel for the parties and have perused the record.

After going through the records, it appears that as per the statement of the appellant, her husband was aged about 50 years and

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he had 16 bighas of land and his earning was Rs. 1500-1600 p.m. We

fail to appreciate how the Tribunal as well as the High Court have taken a casual approach in the matter and declined the compensation

to the widow of the deceased. It is not disputed that the deceased had about 16 bighas of land and his income was Rs. 1500-1600 p.m..

There is no reason to disbelieve this statement of poor rustic widow.

Therefore, after taking it that the age of the deceased being 50 years

and his income being Rs. 1500-1600 p.m. and applying a normal

multiplier of 11, the total amount comes to Rs. 1,50,000/- and the

appellant/claimant has already been paid Rs. 50000/- as no default

liability. Therefore, we partially allow this appeal and direct that the

claimant will be entitled to compensation to the tune of Rs. 1,50,000.

As the appellant/claimant has already been Rs. 50000/- as no default

liability, appellant will be entitled for the remaining compensation of

Rs. 1,00,000/- with 6% interest p.a from the date of 5.9.1991 till the

realisation.

The amount of compensation be released to the

appellant/claimant within a period of eight weeks from today.

.....J.

.....

[ A.K. MATHUR ]

.....J.

.....

[ DALVEER BHANDARI ]

NEW DELHI

May 2, 2007

ITEM NO.103

COURT NO.6

SECTION IV

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 1287-1288 OF 2001

BHAGWATI BAI

Appellant (s)

VERSUS

ESHWAR SINGH & ANR.

Respondent(s)

(With office report )

Date: 02/05/2007 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. MATHUR

HON'BLE MR. JUSTICE DALVEER BHANDARI

For Appellant(s)      Mr. N.R. Choudhury, Adv.  
                                 Mr. Somnath Mukherjee, Adv.

For Respondent(s)      Mr. M.M. Kashyap, Adv.  
  
                                 Mr. Pramod Dayal , Adv

UPON hearing counsel the Court made the following

O R D E R

Appeal is partially allowed in terms of signed order.

(Pardeep Kumar)  
Court Master

(Radha R. Bhatia)  
Court Master

[SIGNED ORDER IS PLACED ON THE FILE ]