
(1927) 05 AHC CK 0003
In the Allahabad High Court

G.I.P. Ry.

APPELLANT

Vs

Ram Adhin and Others

RESPONDENT

Date of Decision : 23-05-1927

Acts Referred:

Citation : AIR 1927 All 762

Judgement

1. This appeal arises out of a suit which was brought in the Court of the Subordinate Judge of Banda under the provisions of the Fatal Accidents Act 13 of 1855. The plaintiffs in the case were the father, mother widow and minor child of one Ganpat Lal who was killed on the G.I.P. Railway in a Railway accident on the 10th May 1921.

2. The plaintiffs claimed Rs. 10,000 damages. The defendant railway company put into Court Rs. 4,500 stating that was an adequate amount of compensation. The Court below after examining witnesses on behalf of the plaintiffs gave a decree for Rs. 10,000. The Subordinate Judge was of opinion that, having regard to the circumstances of the family, the earnings of the deceased man, the fact that he was only 23 years of age at the time of his death and his prospects of success in life, the amount claimed was not excessive. Rupees 4,500 having been paid into Court he made an order for payment by the defendant railway company of the balance of Rs. 5,500.

3. In his judgment the learned Subordinate Judge, as he was bound to do, apportioned the sum of Rs. 10,000 between the various plaintiffs allotting a sum of Rs. 1,000 to the first plaintiff, Ram Adhin, who was the father of deceased.

4. As to the merits of the case it seems to us that it would be quite impossible to interfere with the judgment of the Court below on any of the grounds set forth in the petition of appeal. It is said that the amount awarded is far in excess of what the deceased could have earned had he lived. It is also suggested in the petition of appeal that the evidence relating to the amount of earning by tuition by the deceased was vague and unreliable. There is nothing vague or unreliable about the evidence given by the witness Babu Ishwar Sahai or the witness Jugul

Kishore, and we have no doubt whatever that the Court below was right in finding that in addition to his salary of Rs. 22 a month which he earned as a clerk in the Subordinate Judge's Court the deceased man Ganpat Lal was earning about Rs. 18 or Rs. 20 a month by giving tuition.

5. Having regard to all the facts we think the Subordinate Judge was justified in holding that the proper amount of compensation was Rs. 10,000.

6. A new point has been raised here in argument. Since the appeal was filed in the year 1922 the first plaintiff-respondent, Ram Adhin, has died. According to the affidavit which was sworn he died on 12th November 1925, leaving two sons Binda Prasad and Badri Prasad who have been made parties to the record. It is argued that as the relief in the form of Compensation which Ram Adhin was entitled to obtain in the Court below was in the nature of personal relief the right to demand this money does not survive to the legal representatives of Ram Adhin. We are not disposed to accept this argument. We have to decide, whether the decree which was passed by the Subordinate Judge on the 10th May 1922, was a good and proper decree We are of opinion that it was and that under that decree Ram Adhin became entitled as against the railway company to the payment of a sum of Rs. 1,000. If Ram Adhin has died since the decree was made in his favour we do not think that is any reason why his legal representatives should not be entitled to the benefit of the decree which was passed in favour of Ram Adhin.

7. We, therefore, dismiss this appeal with costs including fees on the higher scale.