

(2019) 08 CHH CK 0106
In the Chhattisgarh High Court
Case No : Misc. Appeal No. 653 Of 2005

Padum Ram And Ors

APPELLANT

Vs

Vijay Kumar And Ors

RESPONDENT

Date of Decision : 19-08-2019

Acts Referred:

Citation : (2019) 08 CHH CK 0106

Hon'ble Judges : Ram Prasanna Sharma, J

Bench : Single Bench

Advocate : Malay Jain, RS Patel, YC Sharma

Final Decision : Dismissed

Judgement

Ram Prasanna Sharma, J

1. This miscellaneous appeal is preferred against award dated 25.01.2005 passed by Second Additional Motor Accident Claims Tribunal, Baloda Bazar (CG) in Claim Case No.50/2003 wherein the said Tribunal awarded sum of Rs.95,064/- in favour of the claimants Dayal Das, Chaitu Ram and Smt. Soni Bai upon death of one Parvati Bai in a motor accident took place on 19.01.2003 at Pousari Tilda Road by Motor Cycle bearing registration No.CG 04 C 13919 and rejected the claim of appellants Padum Ram and Smt. Fatima Bai by holding that they are not dependants of deceased Parvati Bai.

2. As per the case of the appellants, Parvati Bai was going to village Lanja from village Jewari by walking and when she reached at village Paukhari, one motor cycle bearing registration No. No.CG 04 C 13919 dashed her which was driven by respondent No.1 negligently, resulted into death of Parvati Bai. The appellants claimed for compensation but the same was rejected by the learned Tribunal, that is why the appeal is preferred.

3. Learned counsel for the appellants submits as under:

(i) Appellants Padum Ram and Fatim Bai being son and daughter of Parvati Bai

are legal representatives of Parvati Bai, therefore, they are entitled for compensation.

(ii) The trial Court has not evaluated the entire evidence in its true perspective and the same is not liable to be sustained.

4. The core question for consideration of this Court is whether the appellants Padum Ram and Fatima Bai are dependants of late Parvati Bai or not. Before the Tribunal, Padam Das, Nirmala, Uthari, Chaituram and Vishnu were examined as PW-1 to PW-5. From their evidence, it is established that Parvati Bai earlier married to one Dwas Satnami and present appellants namely Padum Ram and Fatima Bai are son and daughter of Dwas Satnami and Parvati Bai and later on Parvati Bai married with one Vishram and she was blessed with two sons namely Dayal Das and Chaitu Ram and one daughter namely Soni Bai. Both Parvati Bai and Vishram were residing at village Jewari while Padum Ram and Fatima were residing at village Churchutiya with Dwas Satnami. After marriage of Fatima she is residing with her husband. Both Padum Ram and Fatima Bai were not in the company of Parvati Bai after her marriage with Vishram. Therefore, they are not dependants of Parvati Bai. Apparently, Padum Ram is residing with his father Dwas Satnami at village Churchutiya whereas his mother Parvati Bai is residing at village Jewari. Again Fatima Bai is also not residing with Parvati Bai and she was residing with her father Dwas satnami and after marriage she is residing with her husband. Therefore, Padum Ram is dependant of Dwas Satnami and Fatima Bai was earlier dependant of Dwas Satnami and later on she is dependant of her husband after marriage.

5. Looking to the entire evidence, the learned Tribunal opined that both the appellants are not dependants of Parvati, therefore, their claim for compensation as dependants of Parvati Bai is not sustainable. The finding of the trial Court is based on proper marshaling of the evidence and after reassessing the same this Court has no reason to record a contrary finding, The arguments advanced on behalf of the appellants is not sustainable.

6. Accordingly, the appeal is liable to be and is hereby dismissed.