

FIRST APPEAL NO. 6554 of 1995

Date of Decision : 28.6.1996

For Approval & Signature

THE HON'BLE MR. JUSTICE N.J.PANDYA

AND

THE HON'BLE MR. JUSTICE A.R.DAVE

1. Whether reporters of Local Papers may be allowed to see the judgment ?

2. To be referred to the Reporter or not ?

3. Whether their Lordships wish to see the fair copy of the judgment ?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any other order made thereunder ?

5. Whether it is to be circulated to the Civil Judge ?

Mr.Hemant S.Shah , learned Advocate for the Appellant

Mr.S.M.Shah, learned Advocate for the Respondent.

CORAM : N.J.PANDYA & A.R DAVE,JJ

28.6.1996

ORAL JUDGMENT : [PER ; PANDYA, J]

In response to the notice issued in Civil Application No. 5715/95, L.A. Shri S.M.Shah appeared for the respondent and with the consent of the parties, the main matter which has been admitted on 12.3.1996, is taken up for final hearing today.

Learned Tribunal, while disposing of MAC Petition No.

349/90 has, in our opinion, correctly assessed the dependency figure of Rs. 1000/ in the facts and circumstances of the case, but has wrongly applied the multiplier of 15.

The deceased being aged about 50 years, by way of guidance, if we refer to Schedule :III of M.V.Act, for this age, the mulitplier could be between 13 & 11 years. In the instant case, we therefore put it at 12 and accordingly reduce the amount awarded to the claimants.

The reduction will be to the extent of Rs. 36,000/ leaving the balance of Rs. 1,44,000/. Rest of the award is kept as it. The appeal is, therefore, partly allowed to the aforesaid extent and the amount having deposited before the trial court, the said amount of Rs. 36,000/ with proportionate costs and interest shall be refunded to the appellant. However, if the amount is not fully deposited, the trial court should look into the matter and insist for balance amount after getting effect to the aforesaid reduction.

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