

Nirmalabai Narayan Datar and Others

Vs

Girijabai Gangadhar Gadre and Others

Civil Appeal No. 4319 of 1984

(CJI Y. V. Chandrachud, V. B. Eradi JJ)

25.10.1984

ORDER

1. Special leave granted.
2. The award passed by the Arbitrator suffers from an error which is apparent on the face of the award. That error has to be corrected.
3. Section 37 of the Partnership Act, 1932 provides, insofar as relevant, that where any member of a firm had died and the surviving partners carry on the business of the firm with the property of the firm without any final settlement of accounts, then, in the absence of a contract to the contrary, the estate of the deceased partner is entitled at its option to a share in the profits made by the partnership which is attributable to the use of the share of the deceased partner in the property of the firm or to interest at the rate of six per cent. per annum on the amount of his share in the property of the firm. The error committed by the Arbitrator is that he awarded interest at 9 per cent. instead of 6 per cent.
4. Accordingly we direct that the appellants shall be liable to pay to the respondents interest at the rate of six per cent. per annum with effect from the date of the death of Gangadhar Shankar Gadre until the date of the award. The rest of the award is confirmed and will remain. There will be no order as to costs.

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