

Reena Padhi and Others

Vs

Owners and Parties and Another

Criminal Appeal No. 2988 of 1982

(Kuldip Singh, N. M. Kasliwal JJ)

26.08.1992

JUDGMENT

1. Rabindranath Padhi, the husband of appellant No. 1 and father of appellants 2 and 3, was employed with respondent No. 2 the Great Eastern Shipping Company Limited. While working as Chief Engineer of the ship "M. B. Jagdhir" he travelled to Japan. When the ship was docked at the port of Mizushima in Japan an accident occurred in the air-conditioning room of the ship as a result of which Rabindranath Padhi got seriously injured and he ultimately succumbed to the injuries on July 25, 1978. The widow and his two minor children instituted a suit for compensation, invoking the Admiralty Jurisdiction of the Orissa High Court, claiming a sum of Rs. 15,14,000/-. The High Court held that the suit could not be entertained in its Admiralty Jurisdiction and as a consequence the plaint was returned to the appellants-plaintiffs for presentation before the proper Court of law.

2. This appeal by way of special leave is against the judgment of the High Court. This appeal filed in the year 1982 has matured for hearing in 1992. It is a pity that even fifteen years after the death of Rabindranath his widow and children are not sure about the forum to approach for compensation. It would be travesty of justice to relegate the appellants to the remedy of suit at this stage as it is likely to take very long time. We are of the view that for doing complete justice in this case it is necessary for this Court to settle the dispute finally at this stage.

3. At the time of his death Rabindranath was 33 years of age. He was drawing Rs.78040/- per annum as his basic salary. Apart from the basic salary he was being paid allowances and other perks. He left behind his young widow and two minor children.

4. Learned counsel for respondent 2, the shipping company agrees with us that this is a hard case where for the last fifteen years the appellants are trying to find out the Court having jurisdiction to deal with this claim for compensation.

5. It is not disputed that the appellants have already been paid Rs. 1,64,367/- by the respondent-company towards compensation.

6. We do not propose to go into the merits of the case. We are of the view that in order to meet the ends of justice we may direct the respondent-shipping company to pay further a reasonable sum of money to the appellants to bring an end to this protracted litigation. We direct the shipping company respondent 2 before us to pay further sum of rupees five lakhs to the appellant Smt. Reena Padhi, within two months from today. We have fixed the amount of compensation after taking into consideration the views of the learned counsel for both the parties. Smt. Reena Padhi shall utilise the amount for her own benefit as well as for the benefit of her children who are appellants before

us.

7. We have passed the above order in the special facts and circumstances of this case and it shall not be treated as a precedent. The appeal is disposed of in the above terms with no order as to costs. Order accordingly.

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