

CASE NO.:
Appeal (civil) 3748 of 2002

PETITIONER:
STATE OF PUNJAB & ORS

RESPONDENT:
BASSO

DATE OF JUDGMENT: 28/02/2008

BENCH:
H.K. SEMA & MARKANDEY KATJU

JUDGMENT:
JUDGMENT

O R D E R
CIVIL APPEAL NO. 3748 OF 2002

Heard learned counsel for the appellant. Despite of notice, none appears on behalf of the respondent.

This appeal is directed against the judgment and order dated 29/10/2001 passed in RSA No.4289/1999 reversing the judgment of the appellate Court albeit without framing substantial question of law. Be that as it may, we are not concerned with that questions now.

The facts in brief are that the respondent Smt. Basso, wife of Ajaib Singh, was operated upon on 23/2/1987 for tubectomy operation at Civil Hospital, Sardulgarh, District Mansa. After the said operation, she became pregnant and gave birth to a female child. It was alleged that she became pregnant due to defective operation conducted by the doctors of the Health Department. She claimed a compensation of Rs.3,00,000/-. However, the trial Court awarded only Rs.50,000/-. On an appeal preferred by the State, the first
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appellate Court allowed the appeal and dismissed the claim. The High Court has reversed the finding of the appellate Court and awarded Rs.50,000/-. The High Court, while awarding compensation of Rs.50,000/- referred to a decision of this Court rendered in State of Haryana Vs. Santra (Smt.), (2000) 5 SCC 182. The aforesaid decision has been impliedly over-ruled by subsequent decisions of three-Judge Bench of this Court rendered in State of Punjab Vs. Shiv Ram & Ors., (2005) 7 SCC 1 and in State of Haryana & Ors. Vs. Raj Rani, (2005) 7 SCC 22.

In view thereof, this appeal succeeds. The order of the High Court is set aside. The appeal is allowed. No costs.