

---

(1880) 03 AHC CK 0009

Allahabad High Court

Case No: None

Jhunna

APPELLANT

Vs

Ramsarup and Others

RESPONDENT

---

Date of Decision: March 15, 1880

Citation: (1880) ILR (All) 777

Hon'ble Judges: Straight, J; Oldfield, J

Bench: Division Bench

Final Decision: Allowed

---

Judgement

@JUDGMENTTAG-ORDER

Straight, J.

The plaintiff-appellant is the widow of one Zalim Singh, a brother of the defendants. This suit was brought to have the sum of Rs. 48 fixed as the amount of yearly maintenance the plaintiff was entitled to receive from her husband's family. The first Court passed a decree in her favour for the sum prayed. The lower Appellate Court has modified the Munsif's order, allotting the maintenance at one-sixth of the hereditary property in suit, that fraction representing the share to which Zalim would have been entitled had he been alive. The right of the plaintiff to maintenance is clear; indeed, that is positively found by both the lower Courts. We do not, however, agree with the observations of the Judge, that "the income being variable according to the seasons, it is better not to affix a given sum for maintenance, but to let that be determined as the occasion may arise." For reasons of convenience and in order to prevent the recurrence of litigation between the parties, we think it far better that a reasonable fixed sum, having regard to all the circumstances of the case, should be ascertained and decreed to the plaintiff. (The Court then proceeded, to make an order remanding for trial the issue whether Rs. 48 was a reasonable amount of yearly maintenance to be allowed to the plaintiff, and if not what fixed sum would be.)