

## Smt. Umi Devi and Another Vs Mohd. Ali and Others

**Court:** Rajasthan High Court

**Date of Decision:** July 3, 2002

**Citation:** (2003) 1 WLN 339

**Hon'ble Judges:** H.R. Panwar, J

**Bench:** Single Bench

**Final Decision:** Dismissed

### Judgement

H.R. Panwar, J.

This appeal is directed against the judgment and award dt. 10.7.2001 passed by learned Motor Accident Claims Tribunal, Bikaner (hereinafter referred to as "the Tribunal") whereby the Tribunal awarded compensation of Rs. 1,70,000/- in favour of appellant-

claimants (hereinafter referred to as "the claimants") and against the respondents.

2. I have heard learned Counsel for the parties. Perused the judgment and award impugned.

3. By this appeal, the claimants seek enhancement of compensation. learned Counsel for the appellants contended that the compensation awarded

by the Tribunal is on lower side. Deceased Biru Ram, a minor aged 15 years died in the accident, which was caused by truck No. RRF-4839

driven rashly and negligently by its driver respondent No. 1 Mohammed Ali. It is contended by the learned Counsel for the appellant that deceased

was a labour and earning Rs. 50/- per day. Contention raised by the learned Counsel was not accepted by the Tribunal and the Tribunal rightly

held that a minor child cannot be expected to go for labour and earn Rs. 1500/- per month. He is also not expected to contribute the young

parents. However, he would have been perspective earning member on attaining majority and would have contributed to the claimants, though he

would have got married and raised his own family and large share of his earning would have been spent on himself and his family members but this

fact cannot be lost sight that he would have contributed some part of his earning to the claimants, who are the parents. At the relevant time, he was

a student of class Vth. Thus, it appears that the case as set up by the claimants that he was a labour runs contrary to their pleadings and evidence.

A student of class Vth cannot be a labour as he is a regular student of school. The Tribunal reached to the conclusion that the claimants have failed

to establish any income of the deceased on the relevant date of accident. This finding cannot be said to be erroneous as it is based on proper

appreciation of the material placed before the Tribunal. The Tribunal relied on the judgment of this Court in *Khushi Ram and Ors. v. Hafeeji and*

*Ors.*, 2001 (1) TAC 100, the Tribunal awarded a sum of Rs. 1,70,000/-.

4. Hon"ble Supreme Court in *Shanti Bai and Others Vs. Charan Singh and Others*, awarded a sum of Rs. 1,50,000/- in case of death of a person

of 18 years. In that case, the deceased left behind the widow, mother and minor sister. Considering all the facts and circumstances of the case, the

Hon"ble Supreme Court awarded Rs. 1,50,000/-. In *Haji Zainullah Khan (Dead) by Lrs. Vs. Nagar Mahapalika, Allahabad*, affirmed the award

of Rs. 1,50,000/- which was computed by courts below in a case of death of a young person of 20 years of age who was student of B.Sc. 1st

year. In the instant case, claimants were unable to make out any such case of dependency, even then the Tribunal has awarded a sum of Rs.

1,70,000/- along with interest at the rate of 9% per annum from the date of claim. It is settled law that in appeal, the quantum is interfered if the

compensation awarded by the Tribunal is either too low or too excessive, as the case may be. Obviously, in the instant case, for the death of a

minor having no income, a sum of Rs. 1,70,000/- cannot be said to be too low. Hence, call for no interference.

5. No other point was pressed.

6. In this view of the matter, I find no merit in this appeal. Accordingly, it fails and is dismissed. There shall be no order as to cost.