

## Shanti Devi and Others Vs Rajendra Singh and Another

**Court:** Rajasthan High Court (Jaipur Bench)

**Date of Decision:** Feb. 27, 1989

**Citation:** (1991) ACJ 902

**Hon'ble Judges:** N.M. Kasliwal, J

**Bench:** Single Bench

**Advocate:** K.K. Sharma, for the Appellant; G.C. Mathur and S.C. Srivastava, for the Respondent

### Judgement

N.M. Kasliwal, J.

Both these appeals are disposed of by one single order as they arise out of the same judgment given by learned Motor

Accidents Claims Tribunal, Jaipur, dated July 28, 1986.

2. I have heard Mr. K.K Sharma for the claimants-appellants, Mr. S.C. Srivastava for the New India Assurance Co. Ltd. and Mr. G.C. Mathur

for Rajendra Singh, owner of the truck in question. In an accident dated October 17, 1981, Sarvan Kumar and Arti died. Shanti Devi widow of

Sarvan Kumar, Arvind Kumar son of Sarvan Kumar and Archana daughter of Sarvan Kumar, filed the claim petition. The claim petition was also

filed by the above claimants for the death of Arti in the above accident. Both the claim petitions were consolidated and the claimants have been

allowed the amount of Rs. 3,80,000/- by way of compensation for the death of Sarvan Kumar and Rs. 20,000/- for the death of Arti along with the

interest at the rate of 12 per cent per annum from April 9, 1982, the date of filing the claim petition. The liability of the insurance company has been

fixed at Rs. 50,000/- according to law prevailing at the time of the alleged accident. The M.A. No. 12 of 1987 has been filed by the claimants for

enhancing the amount of compensation in respect of the death of Arti. M.A. No. 62 of 1987 has been filed by Rajendra Singh, the owner of the

truck, to reduce the compensation of Rs. 3,80,000/- allowed on account of the death of Sarvan Kumar.

3. I shall first deal with the M.A. No. 12 of 1987. Mr. K.K. Sharma appearing on behalf of the claimants-appellants submitted that the learned

Claims Tribunal committed a serious error in awarding Rs. 20,000/- only by way of compensation on account of death of Arti. The learned Claims

Tribunal has awarded Rs. 10,000/- on account of loss of love and affection, Rs. 5,000/- on account of shock and mental agony and Rs. 5,000/-

on account of future loss of income.

4. I have considered the arguments advanced by learned counsel for the parties in this regard. In my view Rs. 10,000/- has been rightly awarded

for the loss of love and affection and calls for no interference. So far as Rs. 5,000/- awarded in respect of the mental agony, such amount could

not have been awarded separately, but no interference can be made as no appeal or cross-objection has been filed on behalf of the respondents

challenging the award of the above amount to the claimants. Now so far as the award of Rs. 5,000/- on account of future loss of income is

concerned, in my view it is on a very low side, Arti was aged about 14 years and a student of 9th class. Taking in view the entire facts and

circumstances of the case I deem it proper to allow the amount of Rs. 30,000/- under this head which relates to the income and financial help to be

made in future by Arti to the claimants. Thus, M.A. No. 12 of 1987 is allowed in part and the compensation of Rs. 20,000/- allowed on account

of the death of Arti is increased to Rs. 45,000/-. The claimants would be entitled to an interest of 12 per cent per annum on the aforesaid amount

from the date of filing the claim petition till payment. However, it is made clear that the amount already paid by the insurance company to the

claimants shall be adjusted in the aforesaid amount. The insurance company is permitted to hand over the draft of the amount of compensation to

Mr. K.K. Sharma, learned counsel for the claimants-appellants, in the presence of the Additional Registrar of this court within two months. The

draft would be payable as account payee in the name of Shanti Devi widow of Sarvan Kumar.

5. In M.A. No. 62 of 1987, I have heard Mr. G.C. Mathur for the appellant and Mr. K.K. Sharma for the claimants-respondents and Mr. S.C.

Srivastava for the New India Assurance Co. Ltd.

6. So far as the amount of Rs. 3,60,000/- allowed by way of compensation on account of future loss of income is concerned, I see no ground or

justification to interfere in the award given by the learned Tribunal. I also find no ground to interfere in the amount of Rs. 5,000/- awarded on

account of the loss of love and affection and Rs. 5,000/- on account of loss of consortium. The Tribunal was, however, wrong in awarding the

amount of Rs. 10,000/- on account of mental agony and shock when the amount of Rs. 5,000/- has already been awarded on account of loss of

love and affection and Rs. 5,000/- on account of loss of consortium. Thus, M.A. No. 62 of 1987 is allowed in part and the total compensation

awarded as Rs. 3,80,000/- stands reduced to Rs. 3,70,000/-.

7. With the above modification, rest of the award given by the Tribunal is maintained.