**(2003) 2 ACC 481 : (2002) 2 ACC 279**

**Jharkhand High Court**

**Case No:** Appeal from Original Order No. 102 of 1997 (R)

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| Kamla Verma | | APPELLANT |
| | Vs | |
| Rajesh Kumar Singh and Others | | RESPONDENT |

**Date of Decision:** Feb. 5, 2002

**Acts Referred:**

- Motor Vehicles Act, 1988 - Section 166

**Citation:** (2003) 2 ACC 481 : (2002) 2 ACC 279

**Hon'ble Judges:** Hari Shankar Prasad, J; Gurusharan Sharma, J

**Bench:** Division Bench

**Advocate:** Manjul Prasad, for the Appellant; M.K. Habib and Alok Lal, for the Respondent

**Final Decision:** Dismissed

**Judgement**

The Court

1. In Compensation Case No. 37 of 1993, Motor Vehicles Claim Tribunal, Ranchi, passed an award u/s 166 of the Motor Vehicles Act, 1988, for Rs. 1,80,000/-.

2. Admittedly, on 9.10.1982, while driving Ambassador Car (BRX 7) Rajesh Kumar Singh met an accident and died.

3. There was an head on collision between the said Ambassador Car and truck (BHT 9393).

4. The tribunal held that it was a case of contributory negligence and owner/driver of Ambassador Car and driver of truck were equally responsible for the accident as both of them were driving in rash and negligent manner. Hence, owners of both the vehicles were liable to pay compensation to the extent of half and half.

5. Since owner of the car died in the accident and it was not insured, the New India Assurance Company Limited, insurer of the truck was directed to pay half of the compensation amount to the tune of Rs. 90,000/- to the claimants.

6. The deceased was 28 years old and annual dependency was calculated at Rs. 1500/- and multiplier of ten was applied by the tribunal.

7. Mr. Manjul Prasad, counsel for the claimant-appellant, submitted that there was nothing on record to establish that it was a case of contributory negligence. There was solitary eye- witness of the accident, who was occupant of back seat of the Car. He was examined as A.W. 4. According to him accident took place on account of rash and negligent drive of truck and owner/driver of car was not at all responsible for it.

8. Mr. M.K. Habib, counsel for respondent Nos. 1 and 2, namely, owner and driver as well as Mr. Alok Lal, counsel for insurer, respondent No. 3 of the truck were not in a position to controvert this fact. There was no evidence to show that driver of the car was also responsible for the accident in question.

9. The impugned judgment and award is, therefore, modified to the extent that entire amount of compensation assessed by tribunal (Rs. 1, 80,000/-) is payable by owner of the truck and as such its insurer is responsible to indemnify the same.

10. The rate of interest granted by tribunal is reduced from 12% to 9% on the ratio of a recent decision of the Apex Court in Smt. Kaushnuma Begam and Ors. v. The New India Assurance Company Limited 2001 (1) JLJR 322 : 2002 (2) JCR 32 (SC).

11. This appeal is disposed of with aforesaid modification in impugned judgment and award. No costs.