

The New India Assurance Company Ltd., Ranchi Vs Sairun Biwi and Others

Court: Jharkhand High Court

Date of Decision: Feb. 19, 2001

Acts Referred: Civil Procedure Code, 1908 (CPC) â€” Order 41 Rule 11
Motor Vehicles Act, 1988 â€” Section 166, 168, 173

Citation: (2002) 0 ACJ 1476 : (2001) 1 JLJR(Jhar) 200 : (2001) 2 ACC 115 : (2001) 49 BLJR 2027 : (2006) 4 JCR 27

Hon'ble Judges: Gurusharan Sharma, J

Bench: Single Bench

Advocate: Alok Lal, for the Appellant; Jaiprakash, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Gurusharan Sharma, J.

Heard the parties and with their consent this appeal is disposed of under Order XLI, Rule 11 of the Code of Civil

Procedure. By impugned judgment and award, dated 5.2.1999, appellant was directed to pay compensation of Rs. 4,07,800 to claimants-

respondents 1 to 5 as compensation, under the provisions of Motor Vehicles Act, 1988. Further, direction was given that if the Insurance

Company fails to pay the compensation amount within 4 months from the date of impugned order, the claimants would be entitled to get interest

12% per annum on the amount of compensation. In the present appeal, filed by Insurance Company, u/s 173 of the said Act, award impugned has

been challenged only to the extent that claimants were not entitled to get more than Rs. 3,59,156/-, which was claimed by them. It is not in dispute

that on 13.8.1992, one Juman Mian, who was a passenger on a tracker (BR-17(B)-6369), died, when the said tracker met accident. It was also

not in dispute that accident took place on account of rash and negligent drive of tracker. At the time of his death Juman Mian was 40 years old and

was employed as loader in Parasiya Colliery of Eastern Coalfields Limited and was getting Rs. 3,459.14 paise per month as salary and the said

vehicle was insured with the appellant-Insurance Company at the relevant time, In his monthly salary of Rs. 3,460/-, a sum of Rs. 1,260/- was

deducted towards his personal expenses and annual dependency was calculated at Rs., 26,250/-(2210 x 12). Tribunal, thereafter, applied 15

multiplier and calculated compensation amount at Rs. 3,97,800/- and added Rs. 10,000/- towards future expectation. Thus, total amount came to

Rs. 4,07,800/-. The question whether claimants are entitled to get higher amount of compensation than the amount claimed in the claim application

was considered in detail in a full Bench decision of Gujrat High Court in Dr. Urmila J. Sangani Vs. Pragjibhai Mohanlal Luvana and Others, , and

was held that u/s 166 read with Section 168 of the Motor Vehicles Act, 1988, it was not open to Claims Tribunal to award the amount of

compensation, higher than the amount claimed by the claimants in the claim petition, on the ground that tribunal had jurisdiction to award just

compensation. In my view, ratio of said Full Bench decision is applicable in the present case. Accordingly, total amount of compensation of Rs.

4,07,800/- is reduced to Rs. 3,59,156/-, as claimed by respondents 1 to 5 in their claim application. The claimants-respondents 1 to 5 are also

entitled to get interest @ 12% per annum from the date of filing of claim application till payment. This appeal is disposed of with the aforesaid

modification in the impugned judgment and award.

2. Statutory amount of Rs. 25,000/-, deposited by appellant in this appeal, by Challan No. J-103, dated 10.12.1999, is permitted to be

withdrawn by claimants-respondents 1 to 5, on proper verification and in accordance with law.

3. Appeal disposed of accordingly.