

(2003) 12 JH CK 0004
Jharkhand High Court
Case No: None

New India Assurance Co. Ltd.
and Another

APPELLANT

Vs

Sernet Singh @ Naga Singh and
Others

RESPONDENT

Date of Decision: Dec. 19, 2003

Acts Referred:

- Motor Vehicles Act, 1988 - Section 166

Citation: (2004) 2 ACC 757

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

Bench: Division Bench

Judgement

Gurusharan Sharma, J.

Both the appeals arise out of a common judgment and award and, therefore have been heard together and are being disposed of by a common order. A motor accident took place on 6th October, 1997 on head-on collision between two vehicles namely a Tata Sumo (BR-14E-0060) and a truck (AXA-8235) wherein the driver of Tata Sumo, Ram Kishore Singh, aged about 22 years, died. His parents, widow and minor children filed Compensation Case No. 222 of 1997, u/s 166 of the Motor Vehicles Act, 1988, which was disposed of by the Motor Vehicle Accident Claims Tribunal, Ranchi by impugned judgment dated 13th September, 2002, directing payment of a sum of Rs. 2,66,200/- with interest @ 9% under the Act to the claimants.

2. The Insurance Company has filed M.A. No. 279 of 2002 challenging the award to the extent that the driving licence of the deceased driver, Ram Kishore Singh being forged, it was not responsible to indemnify the liability of the owner of the truck. In our view, this submission is simply misconceived. There is no question for the insurer of the truck to advance the aforesaid claim for the reason that the deceased was driver of Tata Sumo and the Tribunal on evidence came to conclusion that for the accident in question the truck driver was solely responsible. Secondly, the

appellant could not prove that driving licence of the deceased was actually forged. We, therefore, find no merit in the appeal preferred by the Insurance Company.

3. The claimants have filed M.A. No. 10 of 2003 for enhancement of the amount of compensation, we find that the annual dependency was calculated (c) Rs. 14,400/- and thereafter on applying the ratio of [General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others](#), the Tribunal applied appropriate multiplier of 12 and thereby the total amount of compensation was calculated at Rs. 2,66,200/-. In our view, if the said amount be kept in a term deposit in Nationalized Bank, its interest would cover the annual dependency. We find no reason to interfere with and/or enhance the compensation amount any further. There is no merit in this appeal too and, therefore, it is also dismissed.

4. The statutory amount deposited by the Insurance Company in M.A. No. 279 of 2002 by Challan No. J-48 dated 22nd July, 2003 is permitted to be withdrawn by the claimant/respondent Nos. 1 to 4.

5. As agreed between the parties, the Penal interest imposed by the Tribunal is waived, in case the Insurance Company pays the entire amount of compensation with 9% interest from the date of filing of the claim case till payment, within six weeks from the date of this order.