

(2003) 12 JH CK 0028

Jharkhand High Court

Case No: M.A. No. 48 of 2003

Neelam Sharma Smt.

APPELLANT

Vs

Tata Engineering and
Locomotive Company Ltd. and
Others

RESPONDENT

Date of Decision: Dec. 12, 2003

Acts Referred:

- Motor Vehicles Act, 1988 - Section 166

Citation: (2004) 3 ACC 650 : (2004) 3 JCR 138

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

Bench: Division Bench

Advocate: Indrajit Sinha, for the Appellant; Alok Lal, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

1. Heard the parties. Admittedly, Basant Kumar Sharma, aged about .48 years, died in a motor accident on 14.4.1994. He was dashed by a Tata Chesis, bearing registration No. BHR-16/3147/B/94, while he was going on his Luna Moped. In the proceeding, initiated u/s 166 of the Motor Vehicles Act, 1988, at the instance of his widow and minor children, the Motor Vehicle Accident Claims Tribunal, Jamshedpur considered the evidence on record and accordingly assessed the annual dependency at Rs. 36,000/-. It was also found that at the time of final decision in the said compensation Case No. 96 of 1994, his widow had started earning and she had her personal income and, therefore, the Tribunal applied multiplier of 9 and calculated a sum of Rs. 3,24,000/-, payable as compensation, to the claimants under the Act.

2. In calculation of compensation under the Act, the Tribunal was to assess basically the loss of dependency, sustained by the legal representatives of the deceased and even if, some of them had their independent income, the same was not to be taken

into consideration and number of appropriate multiplier to meet the loss of annual dependency cannot be reduced for that reason. Hence, in our opinion, the approach of the Tribunal in applying a lower multiplier for the reason that the widow of the deceased had her independent income was not justified. In such circumstance, applying the ratio of the decision of the Apex Court in [General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others,](#) and keeping in view the age of the deceased as well as the age of the claimants, in order to meet, the loss of annual dependency, in our opinion, the appropriate multiplier would be 11 in the present case and thus the total amount of compensation comes to Rs. 3,96,000/-, plus interest at the rate of 7% per annum, which has been granted by the Tribunal, payable from 1.10.1994 till payment.

3. This appeal is disposed of with the aforesaid observation and modification in the impugned judgment and award.