

**(2003) 09 JH CK 0041**  
**In the Jharkhand High Court**

Chitra Rekha Devi

APPELLANT

Vs

Santi Devi and Others

RESPONDENT

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**Date of Decision :** 22-09-2003

**Acts Referred:**

Limitation Act, 1963 — Section 14, 5  
Motor Vehicles Act, 1988 — Section 168, 173

**Citation :** (2004) 2 ACC 182

**Hon'ble Judges :** Gurusharan Sharma, J; Amareshwar Sahay, J

**Bench :** Division Bench

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**Judgement**

1. Heard.

This appeal has been filed u/s 173 of the Motor Vehicles Act, 1988 by the owner of the Tata 407 model bus (BER 9732), against the judgment and award dated 8.10.1999, passed by the Additional Motor Vehicle Accident Claims Tribunal, Koderra, in Claim Case No. 193 of 1990. The appeal was filed on 27.2.2002, whereas limitation had already expired on 16.2.2000. For the reason stated in LA. No. 432 of 2003 at flag "A", filed u/s 5 read with Section 14 of the Limitation Act, 1963, the delay in filing the appeal is condoned.

2. Laxmi Saw, aged about 28 years, died on 24.9.1990, when the said vehicle TATA 407 model bus (BER 9732) turned turtle. The Tribunal assessed a sum of Rs. 1,87,000/- payable as compensation under the Act to the claimant, u/s 168 of the Motor Vehicles Act, 1988 and the Tribunal directed the owner of the vehicle to pay the same. Although it was pleaded that the said bus was duly insured with the National Insurance Company Ltd. at the relevant time and the policy number was also disclosed and the Insurance Company was made a party, but unfortunately the owner of the vehicle could not produce the original insurance policy. Insurance Company did not deny the fact that the vehicle in question was duly insured with them. They also failed to produce the carbon copy of the policy, which was with them. Hence, in such circumstance, the Tribunal directed the owner of the vehicle to pay the compensation amount.

3. On behalf of the Insurance Company, the respondent No. 4 herein, the copy of insurance policy in question has been filed in this appeal along with an affidavit. It is accepted and is directed to be kept on record. Now it stands admitted that the vehicle involved in the accident was duly insured at the relevant time. In such circumstance, we modify the impugned judgment and award to the extent that the liability of the owner of the vehicle to pay the aforesaid amount of compensation must be indemnified by the insurer, the respondent No. 4.

4. So far as the rate of interest granted by the Tribunal is concerned, the same is reduced from 12% to 9% on the ratio of the decision of the Apex Court in Smt. Kaushnumma Begum and Ors. v. The New India Assurance Co. Ltd. and Ors. I (2001) ACC 151 : 2001 (1) JLJR 322.

5. The respondent No. 4 must pay the entire compensation amount with interest to the claimants within six weeks.

6. The statutory amount deposited in this appeal by the appellant to the tune of Rs. 25,000/- by challan No. J-94 dated 23.3.2002 is permitted to be withdrawn by the appellant, on proper verification and in accordance with law.

This appeal is disposed of accordingly.