**(1926) 05 AHC CK 0050**

**In the Allahabad High Court**

G.I.P. Railway Company APPELLANT

Vs

Mt. Janki Bai and Others RESPONDENT

**Date of Decision :** 21-05-1926

**Acts Referred:**
Fatal Accidents Act, 1855 — Section 1

**Citation :** AIR 1926 All 703

**Hon'ble Judges :** Kanhaiya Lal, J;Ashworth, J

**Bench :** Full Bench

**Final Decision :** Dismissed

## Judgement

Kanhaiya Lal, J.—Babu Brij Bihari Lal was employed as Head Clerk in the Banda Municipality. He went to Mahoba to attend the marriage ceremony of the son of one Jugul Kishore, and when he was returning from that place to Banda by a passenger train of the G.I.P. Railway Company, a collision took place at Matanudh station, which resulted in considerable damage both to the passengers and the rolling stock. Babu Brij Bihari Lal was one of the passengers killed. He left a mother aged about 53 years, a widow aged about 29 years and three minor daughters aged 3, 5 and 8 years respectively. They claimed Rs. 25,000 damages from the Railway Company on account of the loss they had suffered by the death of Babu Brij Bihari Lal. The Railway Company offered Rs. 8,000, but the Court below has awarded Rs. 16,000 out of which Rs. 2,000 have been awarded to the mother, Rupees 5,000 to the widow and Rs. 3,000 to each of the daughters of the deceased. The Court below pointed out that the deceased was earning at that time Rs. 60 per mensem as his salary, and that his salary was on an incremental scale rising by Rs. 5 to Rs. 90 per mensem. It also pointed out that he had on more than one occasion officiated as the Secretary of the Banda Municipality, and that though he had recently been promoted to the grade of Rs. 60 per mensem he had prospects of rising to a still higher salary. It also mentions that he was a very healthy, strong and robust man, that the daughters were all unmarried, and about Rs. 2,000 would have to be spent in the marriage of each daughter,, who, if Babu Brij Bihari Lal had survived, would, in all probability, have received some dowery at the time of her marriage. The Railway Company has filed an appeal asking that the amount awarded should be reduced, and a cross-objection has been filed by the plaintiffs, claiming that the amount awarded should be enhanced.

2. We see no reason to differ from the Court below in the measure of damages which it has awarded to the plaintiffs. Section 1. Fatal Accidents Act (13 of 1885), declares that in every such action the Court may give such damages as it may think proportionate to the loss resulting from the death of the person concerned to the parties respectively for whom and for whose benefit the damages are claimed. It is difficult to lay down any general rule regulating the award of damages in such cases. In each case the circumstances must necessarily regulate the amount to which a party might be entitled, or measure the loss which that party has suffered by the death of the person concerned. As pointed hut in Sadag Reza v. Khoshmohini Dasi AIR 1922 Cal 317 where a person loses her life as a result of an accident the value of his life does not depend on the number of his dependents but on his earning capacity. The larger the number of dependents in a family, the greater is the value of the life of the person supporting them, but the loss which they suffer by his death can only be measured by his earning capacity, of which the family was enjoying the benefit, and the care, attention and support which were to be reasonably expected from him had he been alive.

3. The deceased was earning Rs. 60 per mensem at the time of his death, and had prospects which have also to be taken into account. The expenses likely to be incurred in the marriage of the daughters, all of whom were very young, and unmarried, and the amount likely to be required for the maintenance of the dependents, having regard to their ages.are also elements to be considered in awarding compensation. The Court below has measured that loss by awarding Rs. 16,000 as damages. That amount would, if invested at 5 per cent., yield Rs. 800 per annum, and considering the income that the deceased was receiving, the plaintiffs are sufficiently protected by the amount which has been awarded to them. We see no reason, therefore, for varying or increasing the amount awarded, and dismiss the appeal and the cross-objection with costs in each case including fees in this Court on the higher scale.

Ashworth, J.

4. I concur in the finding.

 