

(1985) 10 RAJ CK 0008

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No's. 61 to 67, 84 to 87 and 95 of 1979

Poosa Ram Ghewar Lal and Others

APPELLANT

Vs

Hemraj and Others

RESPONDENT

Date of Decision : 04-10-1985

Acts Referred:

Motor Vehicles Act, 1939 — Section 110A, 110B

Citation : (1985) WLN 479

Hon'ble Judges : Shyam Sunder Byas, J

Bench : Single Bench

Judgement

Shyam Sunder Byas, J.—Since these appeals and cross-appeals u/s 110-D of the Motor Vehicles Act, 1939 (for short "the Act") relate to one and the same accident and since identical questions of law and fact are involved in them, they were heard together and are decided by a common judgment. By the award passed on February 24, 1979, the claims tribunal directed the owner, driver and the insurer of the truck RJQ 6739 to pay compensation varying in amounts to the claimants. Some of the claimants are injured persons while the others are heirs and dependents of the deceased-victims. The owner and the driver of the truck have come-up in appeals and contended that they were wrongly called-upon to pay the compensation to the claimants where as the grievance of some of the claimants is that the compensation was quantified too low.

2. Briefly, recounted, relevant facts giving rise to these appeals are that bus RJQ 1745 was coming from Jalore to Jodhpur on June 15, 1973. PW 1 Hemraj, PW 3 Seeta Ram, PW4 Smt. Kamla and PW 2 Babulal, who are the injured-claimants were travelling in that bus. The wife of Balam Chand, the son of Smt. Basanti, the husband of Mst. Aachuki and the daughter of Mst. Kamla were also travelling in this very bus. At about 2.30 p.m. when the bus reached near village Neemli (nearly 15 miles away from Jodhpur), truck RJQ 6739 came running from the opposite direction at a terrific speed. It was alleged that the drivers of the bus & the truck were driving these vehicles rashly and negligently and they could not

control them when the two vehicles came near to each other. It resulted in a head on collision between the bus the truck. The bus was badly damaged. Hemraj, Seeta Ram Mst. Kamla and Babulal sustained multiple injuries while four persons travelling in the bus passed away on account of the injuries sustained by them in this accident. It was alleged in the claim petitions that the accident had taken place on account of rash and negligent driving of the two motor vehicles by their respective drivers. It was further alleged the Ghewar Lal was the owner of the truck. Poosa Ram was driving it at the time of the accident. The truck was insured with Hindustan General Insurance Society, which later on merged and amalgamated into the National Insurance Company Ltd. Munni Lal was the owner of the bus and Daudkhan was driving it at the time of the accident. It was insured with the New Great Insurance Company Ltd. (later on merged and amalgamated into the Oriental Fire & General Insurance Company Ltd.). The injured passengers and the heirs and dependents of the deceased passengers filed applications u/s 110-A of the Act, claiming various amounts as compensation.

3. The owners and the drivers of the two vehicles contested the claims. The accident between the bus and the truck was admitted by them, but each denied that it had taken place due to the rash and negligent driving of his vehicle. According to the owner and driver of the truck, the driver of the bus was driving it rashly and negligently and could not control it when the situation demanded so. The accident had, thus, taken place on account of the rash and negligent driving of the bus by its driver Daud Khan. It was, on the other hand, contended by the owner and the driver of the bus that the driver of the bus, seeing the truck coming from the opposite direction at a terrific speed, moved it on the extreme left edge of the road. The bus was in a very slow speed Poosa Ram the driver of the truck could not control it. The front portion of the truck dashed against the body of the bus. The accident had taken place due to the rash and negligent driving of the truck by its driver. The owners and the drivers of the two vehicles, thus, attempted to throw the liability of the accident on the other. The amount of compensation claimed by the claimants was also challenged by the owners and the drivers of the two vehicles. The Tribunal raised the necessary issues. By the order dated November, 22, 1975, the Tribunal, in accordance with the agreement between the parties, directed that evidence will be recorded in miscellaneous case No. 153-A/1973 (Seeta Ram v. Poosaram and Ors.) and the evidence so recorded in that case shall be placed on record in all the connected case. The claimants as well as the owners and the drivers of the two vehicles adduced evidence documentary as well as oral. On the conclusion of trial, the tribunal held that the accident had taken place due to the rash and negligent driving of truck RJQ 6739 by its driver Poosaram. According to the Tribunal the driver of the bus was driving it slowly and cautiously whereas the driver of the truck was driving it rashly and negligently. As a result, the Tribunal directed the owner, driver and the insurer of the truck RJQ 6739 to pay the compensation to the claimants as under:

(i) a sum of Rs. 19404/- to claimants Mst. Aachuki and others in claim petition No. 12 of 1978. Out of this, the liability of the insurer was fixed for a sum of Rs. 15,159.38p. ;

(ii) a sum of Rs. 4500/- to the claimants Hemraj in claim petition No. 10 of 1978. Out of this, the liability of the insurer was fixed for a sum of Rs. 3555.62 p. ;

(iii) a sum of Rs. 9,000/- to claimant Mst. Basanti in claim petition No. 6 of 1978. Out of this, the liability of the insurer was fixed for a sum of Rs. 7031.25p.;

(iv) a sum of Rs. 12,000/- to the claimants Balamchand and others in claim petition No. 3 of 1978. Out of this, the liability of the insurer was fixed for a sum of Rs. 9,375/-;

(v) a sum of Rs. 6,000/- to claimant Babu Lal in claim petition No. 11 of a sum of 1978. Out of this, the liability of the insurer was fixed for Rs. 4687.30 p. ;

(vi) a sum of Rs. 7096/- to the claimants Mst. Kamla and others in claim " petition No. 4 of 1978. Out of this, the liability of the insurer was fixed for a sum of Rs. 5543.75p.; and

(vii) a sum of Rs. 4,500/- to claimant Seeta Ram in claim petition No. 7 of 1978. Out of this, the liability of the insurer was fixed for a sum of Rs. 3515.63 p.

5. By the awards, the Tribunal absolved the owner, driver and the insurer of Bus RJQ 1745 from all sorts of liability.

6. I have heard the learned counsel for the parties at great length. I have also gone through the case file carefully. There is no dispute that a head on collision took place between bus RJQ 1754 and truck 6739 near village Neemli on Jodhpur-Pali Highway at about 12.00 hours on June 15, 1973 resulting in the death of four passengers and injuries to equal number . of passengers travelling in the bus. It is also not in dispute that driver Poosa-ram was driving the truck while driver Daud khan was driving the bus at that time. There is no dispute between the claimants on one hand and the owners and drivers of the truck and bus on the other hand that the accident had taken place on account of rash and negligent driving of either the truck or the bus. The driver of the truck casts the liability on the driver of the bus and vice versa. Thus, the real dispute is between the drivers of the truck and the bus as to whether the accident had taken place on account of the rash and negligent driving of the truck by its driver as held by the Tribunal.

7. In assailing the award. Mr. L.S. Kacchawaha, learned counsel for the driver and the owner of the truck raised the following contentions namely:

(1) the finding of the tribunal that the accident had taken place on account of the rash and negligent driving of the truck by its driver Poosaram is wholly erroneous and unsustainable According to Mr. Kacchawaha, the accident had taken place on account of the rash and negligent driving of the bus by its driver Daudkhan. Inter alia it was contended that the at the worst it should be taken to be a case where

the drivers of both the motor vehicles were rash and negligent in driving them. It is thus, a case of composite negligence.

(2) compensation has been quantified very liberally rather extravagantly; and

(3) the tribunal crept in into an error in fixing the liability of the insurer for the payment of compensation only upto the total amount of Rs. 50,000/-. It was argued that the insurer of the truck is liable to pay compensation upto the extent of Rs. 50,000/- to each of the claimants.

Countering these contentions, it was argued on the other side that the finding recorded by the tribunal on the question of rash and negligent driving of the truck by its driver is based on a proper appraisal of the evidence adduced by the parties. Such a finding of fact should not be lightly interfered with in this appeal. However, Mr. B.L. Maheshwari, learned counsel for the National Insurance Company Limited, with which the truck was insured, conceded that in view of the law laid down by their Lordships of the Supreme Court in *Motor Owners' Insurance Company Limited Vs. Jadavji Keshavji Modi and Others*, the insurer is liable to pay compensation upto the extent of Rs. 50,000/- to each of the claimants. It would be proper to deal with the contentions raised on behalf of the owner and the driver of the truck at seriatim.

8. Taking the first contention, it was argued by Mr. Kacchawaha that the finding of the Tribunal that the accident had taken place due to the rash and negligent driving of the truck by its driver Poosaram is erroneous and uncalled for. It was argued that Tribunal discarded the testimony of DW 1 Poosaram (driver of the truck) DW 3 Gangaram and DW 4 Sohan Das, who were there in the truck. It was further argued that DW 3 Gangaram and DW4 Sohan Das were travelling in the truck. As such, they had seen the accident. Their direct evidence was summarily dismissed without assigning cogent and convincing reasons. It was further argued that even the evidence adduced by the claimants shows that the bus was running at a fast speed and the passengers asked the driver to lower down the speed, but the driver paid no heed to their advice. It was also contended that the tribunal gave undue importance to the witnesses Suresh Chandra (DW2), Daudkhan (driver of the bus (DW 3) Ram Singh (DW 4) and Chandi Dan (DW 5). Out of them, DW 1 Suresh Chandra was a highly interested person being the conductor of the bus. I have taken the respective submissions into consideration.

9. DW 1 Poosa Ram is the driver of the truck. He admitted that the truck was empty and completely unloaded when the accident took place. He, being the driver of the truck, is expected to cast the entire liability of the accident on the driver of the bus. DW 3 Ganga Ram alleged that he was travelling in the bus. He is the real brother of the driver Poosa Ram (DW 1). Naturally, he is interested in his brother. The Tribunal rightly rejected the testimony of DW 3 Ganga Ram, DW 4 Sohan Das is, also, not a dependable witness, as held by the Tribunal.

10. It is easy to procure the oral evidence which speaks in favour or against a

party. In such a case, the attending circumstances and the manner in which the accident had taken place are of vital importance. The Station House Officer Gafoor Khan arrived on the spot on the same day and inspected the site of the accident. He prepared the site plan Ex. 4 and the site inspection memo Ex. P 3. He stated that when he arrived on the spot of the accident, he found the two motor vehicles, i.e., the bus and the truck as depicted in site plan Ex. 4. A look into site plan Ex. 4 reveals that the bus was on the extreme left margin of the road whereas the truck had covered almost the entire width of the road. The dead body of one of the deceased passenger travelling in the bus was found in a kachha portion far away from the road, as shown in site plan Ex. 4. In Ex. 3, the Station House Officer has mentioned that the whole front portion of the truck dashed against the body of the bus. It would be proper to quote the following passage from the site inspection memo Ex 3:

-----vkil esa fHkM+dj IM+d dks vo:} djrh gqbZ [kM+h gS]
ogka tks dqN iwoZ dh vksj VsM+h iM+h gS A rFkk V?d vkj- ts- D;w- 6739 tks
IM+d ij if"Pe dh vksj dkQh eqM+dj cl vkj- ts-D;w- 1745 dh ckWM+h o M?kbZoj
lkbZM+ dk iwjk ikVZ rksM+rh gqbZ vkxs ;kf=;ks dks lhV ds ikVZ es tkdj nf{k.k
fgLlk vUnj ?kql x;k gS-----ysVkbZ gqbZ iM+h gS

In a case of head on collision between the two motor vehicles, the site plan plays a vital role, especially when it has been prepared by the Investigating Officer. The facts recited above in site inspection memo Ex. 3 clearly shows that it was the truck which dashed against the body of the bus. It would be useful to recall that the front portion of the bus did not collide with the front portion of the truck. It means, the driver of the bus was cautious enough and had taken it on the extreme left margin to avert any collision. The driver of the truck, however, could not control and the truck, thus, dashed against the body of the bus. The tribunal rightly attached importance to Ex. 3 and Ex.4 in arriving at a conclusion that the accident had taken place due to the rash and negligent driving of the truck by its driver Poosaram.

10. Even if the testimonies of DW2 Suresh Chandra (conductor in the bus) and DW 3 Daudkhan (driver of the bus) are ignored, there is the direct testimonies of DW 4 Ramsingh and DW 5 Chandidan to show that the driver of the truck was driving it rashly it rashly and negligently. Ramsingh and Chandidan were travelling in the bus. They have no soft corner for the driver of the bus. The witnesses examined by the claimants, namely PW 1 Hemraj, PW 2 Babu Lal, PW 3 Seeta Ram, PW 4 Mst. Kamla and PW 5 Mishri Lal have also stated that that truck was coming at a terrific speed from the opposite direction. Of course, some of them stated that the bus was also running at a fast speed. They admitted that the driver of the bus had taken the bus on the extreme left margin of the road. In view of the aforesaid evidence, the finding of the Tribunal that the accident had taken place due to the rash and negligent driving of the truck RJQ 6739 by its driver Poosa Ram appears to be correct and calls for no interference.

11. Taking the alternate argument of Mr. Kacchhawaha, it was contended that it

is a case atleast of composite negligence where the drivers of both the motor vehicles were driving the motor vehicles rashly and negligently. There is no substance in this contention. The evidence, discussed above, does not show that the head on collision between the two motor vehicles was a result of the composite negligence of the drivers of the two motor vehicles. The case of composite negligence is made out only when the accident had taken place on account of rash and negligent driving of the motor vehicles by their respective drivers. Mr. Kacchhawaha could not show as to how the driver of the bus was rash and negligent in driving it which contributed the cause of the accident. There is no material on record to support the contention of Mr. Kacchhawaha. The first contention, thus, fails.

12. Coming to the next contention of Mr. Kachhawaha, it was argued that compensation has been quantified very liberally rather extravagantly. It was argued that the amount of compensation must suitably be reduced in each case of the claimants. Some of the claimants have also filed cross-objections and cross-appeals for the enhancement of the amount of compensation on the ground that the compensation has been quantified very low. It would be proper to take the appeals and cross-appeals individually.

(1) S.B. Civil Misc. Appeals No. 61 of 1979 Poosaram and Ors. v. Hemraj and Ors. and S.B. Civil Misc. Appeal No. 84/79 Hemraj and Ors. v. Poosaram and Ors.)--

13. Claimant Hemraj demanded a sum of Rs. 10 000/- as compensation. His injury reports are Ex. 3 and Ex. 4. He has also filed the X-ray plates with their finding & examined two doctors PW 9 Dr. P.N. Mistri & PW 10 Dr. P. Dayal. Dr. P. Dayal examined the injuries and issued the injury report Ex.P. 3. Dr. P.N. Mistri is the orthopaedist. According to him, Hemraj sustained fractures of right tibia and right fibula. He attended Hemraj and gave him treatment. The tribunal awarded a sum of Rs. 4500/- as compensation to Hemraj. There is no evidence on behalf of the claimant Hemraj that the two fractures had resulted in any permanent disability partial or full. A sum of Rs. 4500/- as compensation in these circumstances, cannot be said to be excessive or low. In my opinion, this amount represents a fair and just compensation to the claimant. It is neither excessive nor low. In awarding the compensation, the tribunal rather acted with moderation. As such, no reduction or enhancement in this amount of compensation is called for. The appeals of the claimant and the driver and owner of the truck have no force and should be dismissed.

(2) S.B. Civil Misc. Appeal No. of 1979 (Poosaram and Ors. v. Seetaram and S.B. Civil Misc. Appeal No 87/1979 (Seetaram v. Poosaram and Ors.)--

14. Claimant Seetaram demanded a sum of Rs. 30,000/- as compensation. In the accident, he sustained the fracture of femur. He was examined by PW 9 Dr. P.N. Mistri and PW 10 Dr. P. Dyal. The injury reports are Ex.7 and Ex. 8. In addition to the fracture of femur, he received two simple injuries. The tribunal

awarded a sum of Rs. 4500/- as compensation to him. He remained in hospital as an indoor patient from June 15, 1973 to June 26, 1973. Both the doctors did not state that the fracture of femur had resulted in any permanent disability partial or complete. The accident took place in 1973 when the purchasing power of money was considerably higher than what it is today. Though he stated that his right foot as a result of the injury sustained in the accident, had become shortened by 1/1-2 inches and that he feels difficulty in walking and is unable to run, but unfortunately, both the doctors have not stated that his right foot has become shorter by 1/1-2 inches than the other foot. The case of Seeta Ram is not different from the of claimant Hemraj. As such, the amount of Rs. 4,500/- as compensation cannot be said to be excessive or low. It is quite moderate. No interference is called for. Both the appeals that is by the claimant and the owner and driver of the truck, have no force and should, therefore, be dismissed.

(3) S.B. Civil Misc. Appeal No. 63 of 1979 (Poosaram and Ors. v. Balam-Chand and S.B. Civil Misc. Appeal No. 84/1979 (Balam Chand v. Poosa Ram and Ors.)--

15. The claimants are the husband and the sons and daughter of deceased victim Smt. Gulab Kanwar. She was travelling in the bus and on account of the accident, she sustained multiple injuries resulting in her death. The claimants demanded a sum of Rs. 68,300/- as compensation. The tribunal awarded a sum Rs. 12,000/- as compensation. Smt. Gulab Kanwar was nearly thirty years in age at the time of her death, She was not an earning member of the family. She was performing domestic services to the family. I was told during arguments that her husband Balam Chand has remarried. Now, a sum of Rs. 12,000/- as compensation in the case of death of a woman who is wife and the mother cannot be said to be excessive, especially taking into consideration the age of the deceased.

16. It was contended by Mr. Panwar, learned counsel for the claimants that the amount of Rs. 12,000/- is too low. The assessment of compensation made by the tribunal is not just and fair. The Tribunal has adopted a very conservative view of the matter. In my opinion, the contention has no force. The accident had taken place in 1973 when the purchasing power of the money was much higher than what it is today. Taking into consideration the prevailing prices and the money value in 1973, the amount of Rs. 12,000/- as compensation for the death of a non-earning woman cannot be said to be too low so as to call for any interference. I find no good and cogent reasons to enhance the amount of compensation. Thus there is no force in the appeal filed by the claimants Balamchand and others, and the owner and driver of the truck. Both the appeals deserve to be dismissed.

(4) S.B. Civil Misc. Appeal No. 64/79 (Poosaram and Ors. v. Aachuki)--

17. The claimants are the widow and sons of deceased Kishan Das, who lost his life in the accident. The claimants demanded a sum of Rs. 1,75,000/- as compensation. Out of this, a sum of Rs. 67,000/- was claimed as compensation, for mental agony etc. It is well settled that compensation on account of mental

agony, loss of company or consortium etc. is not allowed in the claims under the Act. The deceased was a retired Sub-Inspector of Police. The tribunal awarded a sum of Rs. 19,404/- as compensation to the claimants. The three sons, who are claimants, are major. The deceased was getting a sum of Rs. 147/- per month as pension. The tribunal, after making a detailed analysis of the evidence adduced by the parties concluded that the deceased was contributing a sum of Rs. 1764/- p.a. to the claimants. He applied the loss of dependency benefit as eleven years purchase. The approach of the tribunal cannot be said to be erroneous. As such, the tribunal rightly applied the figures of multiplier and multi-plicant. No interference is called for. The amount assessed by the tribunal as compensation appears to be just and proper and admits no interference. The appeal of the owner and the driver of the truck has, thus, no force and should, therefore, be dismissed.

(5) S.B. Civil Misc. Appeal No. 65/1979 (Poosaram and Ors. v. Mst. Basanti)

18. The claimant Mst. Basanti is the mother of deceased victim Buddi Prakash aged about 12 years at the time of the accident. She claimed a sum of Rs. 50,000/- as compensation. The tribunal awarded a sum of Rs. 9000/- as compensation to her. The liability of the insurer was fixed at a sum of Rs. 7031.25 p. She has filed cross objection for the enhancement of the amount of compensation. According to her, the compensation assessed by the Tribunal is grossly inadequate and should, therefore, be raised.

19. The evidence adduced by the parties shows that the deceased Buddi Prakash (aged about 12 years) was a student reading in class VII. The age of Mst. Basanti, as disclosed in her statement, was fifty years. Taking into consideration the claimant's age, the tribunal allowed the loss of dependency benefit at ten years purchase. The tribunal further held that the deceased, on attaining the majority would have contributed a sum of Rs. 75/- per month to her (Mst. Basanti) Thus, the multiplicand was taken at Rs. 900/- per Annum. The multiplier applied was often years purchase. Section 110-B of the Act speaks of compensation which appears to be just. The word "Just" signifies what is reasonable. In the instant case, nothing has been deducted on account of uncertainties or due to imponderables and the payment of compensation in a lump-sum. In these circumstances, the approach of the tribunal in applying the figures of multiplier and multipli-cant does not appear to be erroneous so as to call for any interference. The accident had taken place in 1973 when, as stated above, the money had high purchasing power. The Tribunal was not unfair to any of the parties in assessing the compensation The appeal and the cross objection have, thus, no merit and they should, be dismissed.

(6) S.B. Civil Misc. Appeal No. 67/1979 (Poosaram and Ors. v. Smt. Kamla)

20. The claimant Smt. Kamla is the mother of the Deceased victim Lachmi. (aged about 12 years at the time of the accident). The claimant demanded a sum of Rs. 20,000/- as compensation. The tribunal awarded a sum of Rs. 7,096/- as

compensation and fixed the liability of the insurer for a sum of Rs. 5543.75. The deceased was reading in class IX. The Tribunal following certain decisions of Delhi and Kerala High Courts assessed the compensation in the amount of Rs. 7096/- The amount of compensation does not appear to be excessive. Mr. Kachhawaha appearing for the owner and driver of the truck could not make out a case for interference. The compensation appears to be just and fair. The appeal has, thus, no force and should be dismissed.

(7) S.B. Civil Misc. Appeal No. 62/79 Poosaram and Ors. v. Babulal and S.B. Civil Misc. Appeal No. 95/79 (Babulal v. Poosaram and Ors.) -

21. Claimant Babulal was a minor boy of 12 years in age at the time of the accident. The claimant demanded a sum of Rs. 20,000/-. The claim was preferred by him by making his father Hemraj as his next friend. The tribunal awarded a sum of Rs. 6000/- as compensation to him, out of which the liability of the insurer was fixed for a sum of Rs. 4687.50. The grievance of the owner and the driver of the truck is that the compensation has been assessed every liberally whereas the grievance of the claimants is that the compensation has been quantified very low.

22. The claimant had sustained multiple injuries including a fracture in the right thigh. The fracture has resulted in the permanent disability which, according to the medical evidence is 25 per cent. The Medical evidence also reveals that the right leg has become thinner than the left leg. The claimant remained an indoor patient for more than one month. The partial disability assessed at 25 per cent is a permanent one. The claimant's father had to spend considerable amount in the treatment of the claimant. Of course, he could not produce the medical bills, but one can well imagine that in such an ailment of the disability, considerable amount must have been spent. According to Dr. Bhati (PW 11), the right leg of the claimant does not bend. The claimant had sustained the fracture of the right femur. Taking all these factors into consideration, the compensation assessed at Rs. 6000/- appears to be highly inadequate. Taking into consideration the permanent partial disability, tender age of the claimant and the expectancy of life, the amount of compensation should be considerably enhanced. In my opinion, sum of Rs. 15,000/- (Rupees Fifteen thousand only) would be the fair and just compensation. The appeal of the owner and the driver of the truck should, therefore, be dismissed, while the appeal of claimant of Babulal should be partially allowed by enhancing the amount of compensation from Rs. 6000/- to Rs. 15,000/-.

23. The last contention which now survives for consideration is whether the insurer should not be called upon to make payment over and above Rs. 50,000/- as held by the tribunal. It was contended by Mr. Kachhawaha that Section 95(2) (a) of the Act was wrongly understood and applied by the tribunal. It was argued that the expression "any one accident" signifies as many as number of persons injured in an accident. As such, the limit of compensation of Rs. 50,000/- extends to each claimant. In support of the contention, reliance was placed on Motor

Owners'' Insurance Company Limited Vs. Jadavji Keshavji Modi and Others, . Mr. Maheswari learned counsel appearing for the insurance company of the truck could not dispute the legal position in view of the pronouncement made by their Lordships in the aforesaid decision. The insurer of the truck is therefore, liable to make the payment of the compensation upto the extent of Rs. 50,000 to each claimant. The approach of the tribunal in distributing the amount of Rs. 50,000/- among various claimants, thus, cannot be maintained.

24. In the result:

(1) the appeals of Balamchand, Hemraj and Seetaram for enhancement of the compensation are dismissed with no order as to costs;

(2) the appeal No. 95/79 (Babulal v. Poosaram and Ors.) is partly allowed. The amount of compensation of Rs. 6000/- awarded by the tribunal is raised to Rs. 15,000/- (rupees fifteen thousand), but with no order as to costs;

(3) Appeals No 61/79, 62/79,63/79, 64/79, 65/79 66/79 and 67/79 filed by the owner Ghewarlal and the driver Poosaram of truck RJQ 6739 are partly allowed. The liability of the insurer fixed by the tribunal is set-aside and it is directed that the National Insurance Company Limited will be liable for the payment of compensation upto the extent of Rs. 50,000/- in case of each claimant. In other words, the amount of compensation of each claimant, if does not exceed a sum of Rs. 50,000/- will be paid by the National Insurance Company Limited. Costs of these appeals will be on the aforesaid appellants;

(4) the awards in other respects, for example interest etc. are maintained.

25. The awards of the tribunal shall stand accordingly modified.