

(2002) 01 JH CK 0041

In the Jharkhand High Court

Case No : Appeal from Original Order No. 467 of 1993 (R)

The Oriental Fire and General Insurance Co. Ltd.

APPELLANT

Vs

Smt. Merry Kujur and Others

RESPONDENT

Date of Decision : 30-01-2002

Acts Referred:

Motor Vehicles Act, 1939 — Section 110A

Citation : (2002) 01 JH CK 0041

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

Bench : Division Bench

Advocate : B. Chatterjee, for the Appellant; S.N. Lal, for the Respondent

Final Decision : Dismissed

Judgement

The Court

1. The Oriental Fire and General Insurance Company Limited has preferred present appeal challenging judgment and award dated 18.2.1993, passed u/s 110-A of the Motor Vehicles Act, 1939.
2. Admittedly, Nocodin Kujur Koel, husband of respondent No. 1 and father of respondent Nos. 2 and 3 died in a motor accident on 14.8.1984, while travelling in a tracker (B.P.N. 0937) from Ranchi to Lohardaga.
3. The accident took place when the tracker dashed against a standing truck near village Kokar, Nocodin Kujur Koel sustained serious injuries and died at Kuru Hospital.
4. At the time of accident deceased was aged about 47 years and was in service as Upper Division Clerk in Jarangdils Colliery under C.C.L. and his monthly salary was Rs. 1524.47 paise.
5. The tracker in question was insured with the Oriental Fire and General Insurance Company Limited at the time of accident. Insurance Policy was brought on record and marked as Exhibit 1 at the instance of the Insurance

Company.

6. It was established on the basis of evidence adduced by parties that accident took place for the fault of driver of the tracker and Nocodin Kujur Koel died therein.

7. The Tribunal assessed annual dependency at Rs. 12,000/-, after deducting one third income of the deceased towards his personal expenditures and considering his age applied thirteen multiplier and thus Rs. 1,56,000/- was assessed to be paid as compensation.

8. We find no illegality in the assessing the amount of compensation and as such no interference is required therein.

9. The Tribunal has granted interest @15 per cent per annum on the aforesaid compensation amount from 19.2.1985, when application for compensation was filed before the tribunal till realisation. We modify the rate of interest on the ratio of a recent decision of the Apex Court in Kaushanuma Begaum and Ors. v. New India Assurance Co. Ltd. and Ors. 2001 (1) JLJR 322 (SC): 2002 (2) JCR 32 (SC), and reduce it from 15 per cent to 9 per cent.

10. The Tribunal has also granted penal interest @ 18 per cent per annum on failure of Insurance Company to pay the amount of award with interest within two months from the date of impugned judgment. The said direction of the impugned judgment is also modified to the effect that if the appellant failed to pay the amount of award with interest within two months from today, claimants shall be entitled to get interest @ 18 per cent instead of 9 per cent.

11. This appeal is disposed of with aforesaid observations and directions. However, there shall be no order as to costs.