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**(1999) 09 PAT CK 0133**  
**In the Patna High Court**  
**Case No : M.A. No. 166 of 1998**

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|--------------------------------------------|------------|
| The Oriental Insurance Co. Ltd. and others | APPELLANT  |
| Vs                                         |            |
| Malti Devi and others                      | RESPONDENT |

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**Date of Decision :** 20-09-1999

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 11  
Motor Vehicles Act, 1988 — Section 173

**Citation :** (2000) 1 PLJR 157

**Hon'ble Judges :** Gurusharan Sharma, J

**Bench :** Single Bench

**Advocate :** Ajay Kumar, for the Appellant; Satish Kumar Sinha for Resp. 1 and 2 in 166, Mr. Azhar Imam for Resp. 1 in 167 and Mr. Sanjay Kumar Singh for Resp. 1 in 170, for the Respondent

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## Judgement

Gurusharan Sharma, J.—Heard the parties, perused the records and with their consent, these three appeals, arising out of a common judgment, passed by Motor Accidents Claim Tribunal, Chapra, are disposed of under Order 41, Rule 11 of the CPC by a common order. Admittedly, on 14.9.1993, in a motor accident several persons lost their lives. A bus bearing registration no. BEW 4155 met with an accident near Basti Jalal in Saran District. It fell into river, Several passengers of the bus including Durga Prasad Singh, Satendra Rai and Ramanand Singh died and others were injured. Altogether 35 claim cases, under the provisions of Motor Vehicles Act, 1988 (hereinafter referred to as "the Act") were filed for compensation including Claim Case Nos. 66, 61, 38 of 1993, which along with others have been disposed of by impugned judgment dated 7.2.1998 and separate awards have been prepared.

2. These appeals have been pretended u/s 173 of the Act by the assurance Company challenging quantum of compensation fixed by the tribunal.

3. Heirs of deceased Durga Prasad Singh filed Claim Case No. 66 of 1993 Deceased was a 47 year"s old-Junior Engineer. His monthly earning was Rs.

4,129/-. Claimants were his mother, widow and minor children. Tribunal fixed annual dependency at Rs. 33,600/- and applied 13 multiplier. A sum of Rs. 15,000/- was also given for loss of consortium and estate and for funeral expense. Total amount of compensation was calculated at Rs. 4,51,800/- with 12% interest per annum from the date of filing of claim case till payment.

4. Claim Case No. 61 of 1993 was filed by heirs of deceased Satendra Rai. He was 21 year's old student of B.Sc. class and was unmarried. The claimant was his father, who was 45 years old. The deceased was not an earning member. The tribunal on the basis of notional earning fixed annual dependency at Rs. 9600/- and used 17 multiplier. A sum of Rs. 5000/- was given for loss of estate. Total amount of compensation was calculated at Rs. 1,68,200/- with 12% interest per annum from the date of filing of claim case till payment.

5. Claim Case No. 38 of 1993 was filed by heirs of deceased Ramanand Pandey @ Ramanand Singh, who was conductor of the ill- fated bus. He was aged about 40 years and was getting salary of Rs. 1200/- per month. Claimant was his widow. Tribunal assessed annual dependency at Rs. 9600/- and used 15 multiplier. A sum of Rs. 5000/- was given for loss of consortium. Total amount of compensation was calculated at Rs. 1,49,000/- with 12% interest per annum from the date of filing claim case till payment.

6. Undisputedly, the accident took place for the fault of driver of the bus. Mr. Ajay Kumar, counsel for the appellant submitted that the tribunal failed to apply multiplier method in correct perspective, which has resulted into miscarriage of justice. Multiplier method should be applied in such a way that the dependency calculated in money value should fetch amount of dependency to the claimants, if the awarded amount is deposited in bank in fixed deposit.

7. I find substance in the submission. In the present case, while applying appropriate multiplier the tribunal did not consider the aforesaid aspect of the matter. In this regard ratio of the decision of the apex court in General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, ought to have been applied.

Claim Case No.66 of 1993 - M.A. No. 166 off 1998

8. In my view, appropriate multiplier to be used in this case was 10. Applying it to the annual dependency of Rs. 33,600/-, total amount of compensation comes to Rs. 3,36,000/- If the said amount is kept in fixed deposit, it would fetch interest more than amount of aforesaid annual dependency.

Claim Case No. 61 off 1993 - M.A. No. 167 of 1998

9. In this case also appropriate Multiplier, in my opinion, was 10. Since, annual dependency in this case was fixed at Rs. 9600/- calculation of amount of compensation on this basis comes to Rs. 96,000/- If the said amount is kept in fixed deposit, it would fetch interest more than amount of aforesaid annual dependency.

Claim Case No. 38 of 1993 - M.A. No. 170 of 1998

10. In this case annual dependency was calculated at Rs. 9600/- and so applying appropriate multiplier of 10, total amount of compensation comes to Rs. 96,000. If the said amount is kept in fixed deposit, it would fetch interest more than amount of aforesaid annual dependency.

11. In the aforesaid circumstance, the impugned awards passed in the aforesaid three claim applications, are modified accordingly.

12. Total amount of compensation of Rs. 4,51,800/- given in Claim Case No. 66 of 1993 is reduced to Rs. 3,36,000/- in Claim Case No. 61 of 1993, total amount of compensation of Rs. 1,68,200/- is reduced to 96,000/- and in Claim Case No. 38 of 1993, total amount of compensation of Rs. 1,49,000/- is also reduced to Rs. 96,000/-. The aforesaid reduced amount of compensation is inclusive of all other general damages payable in addition to compensation. Besides this, claimants are entitled to interest @ 12% per annum from the date of filing of Claim case till payment.

13. Claimants-respondents, in the aforesaid three appeals are permitted to withdraw the statutory amount deposited in this court, vide chalan nos. 91, 92, 95 dated 22.5.1998 respectively in M.A. nos. 166, 167 and 170 of 1998 on proper verification and in accordance with law. These appeals are disposed of accordingly.