

**(1986) 06 GUJ CK 0006**  
**In the Gujarat High Court**

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| Union Government of India | Vs | APPELLANT  |
| Bai Satyabhama and Others |    | RESPONDENT |

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**Date of Decision :** 26-06-1986

**Acts Referred:**

**Citation :** (1987) 1 ACC 52

**Hon'ble Judges :** R.C. Mankad, J;A.S. Qureshi, J

**Bench :** Division Bench

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### Judgement

R.C. Mankad, J.—These two appeals and the cross objections arise out of the judgment and award dated August 16, 1977, passed by the Motor Accident Claims Tribunal, Nadiad (hereinafter referred to as the Tribunal). Mr. A.G. Pandit, learned Counsel for the respondents in First Appeal No. 1177/77, however sought permission to withdraw the cross objections before the effective hearing of the Appeal. Permission was granted and therefore the cross objections stood disposed of as withdrawn before the effective hearing of the appeal.

2. The respondents are the widow and daughter of deceased Bal-krishna Purshottam. The respondents filed claim petition before the Tribunal claiming compensation for the death of the deceased - Balkrishna Purshottam (hereinafter referred to as the deceased), who died as a result of injuries received by him in an accident which took place between about 4.00 and 5.00 P.M. on November 4, 1976 on Vidyanagar Road, District-Kheda. The case of the respondents was that when the deceased was returning home from his factory on his bicycle, he was knocked down by a truck bearing No. VD54967. The truck belonging to the Union of India was driven by Jaswant Singh Gissa Singh Chauhan-appellant No. 1 in First Appeal No. 45/78 (hereinafter referred to as the driver). It is the case of the respondents that the deceased had to pass on Vidyanagar road to return home from his factory and it was while he was riding his bicycle that he was knocked down by the truck as stated above. The deceased who was seriously injured, was removed to the hospital, where he died. The respondents filed petition before the Tribunal contending that they were dependent on the deceased for their

maintenance ; that the deceased was earning Rs. 300/- p.m. at the time of his death ; and that they should be awarded compensation of Rs. 50,000/-. According to the respondents, the accident occurred due to rash and negligent driving on the part of the driver of the truck. The appellants opposed the claim of the respondents and their main contention was that the aforesaid truck was not involved in the accident. They also denied that the accident occurred on account of rash and negligent driving of the driver. The Tribunal on appreciation of the evidence on record held that the deceased received fatal injuries when he was knocked down by the truck belonging to the appellants which was driven by the driver. Therefore, according to the Tribunal, the appellants were liable to pay compensation to the respondents. The Tribunal worked out the dependency benefit of the respondents at Rs. 125/- p.m. and awarded compensation of Rs. 25,500/- for the loss of dependency benefit. In addition, it awarded Rs. 3,000/- for the loss of expectation of life, Rs. 1,500/- for medical expenses and Rs. 5,000/- for pain, shock and suffering of the deceased. Thus, the total compensation awarded to the respondents came to Rs. 35,000/-. The appellants have preferred these appeals challenging the judgment and award of the Tribunal.

3. Mr. D.K. Trivedi, learned A.G.P. for the appellants reiterated the contentions raised before the Tribunal viz. that it was not the vehicle belonging to the appellants which had caused the accident. According to Mr. Trivedi, the respondents have failed to establish the identity of the vehicle and the driver of the vehicle and therefore no award could have been passed against the appellants. We do not find any substance in this argument. Yusufbhai Karimbhai PW 6 (Ex. 44) who was having a cabin near the place of the accident has deposed that on the date of the accident, on hearing commotion, he came out of his cabin and saw that there was an automobile accident on the road. He saw N.C.C. truck fleeing away after knocking down the cyclist. He had not seen the number of the vehicle. He has deposed that people who had gathered at the scene of the accident, shouted to stop the vehicle, but the truck which caused the accident, fled away. Ramsing Chhagansing, PW 2 (Ex. 43), who is Police Jamadar, has deposed that the accident took place on November 4, 1976 when he was on duty at N.C.C. compound. He has further deposed that the vehicle involved in the accident was the only vehicle in the compound. He was however not able to give the number of the vehicle. He has further deposed that the aforesaid vehicle had left the compound at 3-30 p.m. and returned at 5-35 p.m. and that the driver i.e. appellant No. 1 in First Appeal No. 45/78 was driving the vehicle.

4. It may be mentioned here that it is case of the respondents that the deceased was knocked down by the NCC truck bearing No. VD 54967. The evidence of Yusufbhai Karimbhai and Ramsing Chhagansing establishes beyond doubt that the deceased was knocked down by the NCC truck. The evidence of Ramsing Chhagansing further establishes that NCC truck was driven by the appellant No. 1 of First Appeal No. 45/78. In our opinion, therefore, the Tribunal was right in reaching the conclusion that the deceased received fatal injuries when he was

knocked down by the truck driven by the driver. We, therefore, reject Mr. Trivedi's contention that the respondents had failed to establish the identity of the vehicle and the driver.

5. The next question is with regard to quantum of compensation determined by the Tribunal. The deceased, at the time of his death, was earning about Rs. 300/- p.m. It was on the basis of this income of the deceased that the Tribunal worked out the dependency benefit of the respondents at Rs. 125/- p.m. and applying multiplier of 17 to that figure awarded compensation of Rs. 25,500/- to the respondents for the loss of dependency benefit. In our opinion, the dependency benefit has been worked out at a low figure. The figure could reasonably have estimated at Rs. 180/- p.m. The contention of Mr. Trivedi was that the Tribunal has erred in applying multiplier of 17 instead of 15. However, even if multiplier of 15 was applied to Rs. 180/- p.m., compensation for loss of dependency benefit would work out to Rs. 2,7000/-. We further find that the Tribunal has awarded Rs. 3,000/- instead of Rs. 5,000/- for the loss of expectation of life. In our opinion, therefore, the total compensation of Rs. 35,000/- awarded by the Tribunal, can not be said to be unreasonable and excessive as urged on behalf of the appellants. We, therefore, do not see any reason to interfere with the quantum of compensation which has been awarded by the Tribunal.

6. In the result, these appeals fail and are dismissed with costs.