

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**Civil Appeal No 9343 of 2019
(Arising out of SLP(C) No 29254 of 2019)
(D No 44366 of 2018)**

Jumani Begam

.... Appellant(s)

Versus

Ram Narayan & Ors

....Respondent(s)

J U D G M E N T

Dr Dhananjaya Y Chandrachud, J

1 Delay condoned.

2 Leave granted.

3 This appeal arises from a judgment of a learned Single Judge of the High Court of Chhattisgarh in MAC No 1370 of 2009. The High Court, in an appeal arising from a decision of the Motor Accident Claims Tribunal¹, enhanced the compensation from Rs 3,81,988 to Rs 6,81,000 and maintained interest at the rate of six per cent.

4 Relevant details pertaining to this appeal are as follows:

The date of accident is 13 August 2008. The deceased was 53 years old at the time of the incident. He was employed as an Assistant Grade II

1 “MACT”

in the Water Resources Department of the State of Chhattisgarh on a monthly salary of Rs 12,636. While he was riding his motorcycle at about 9 pm on Bilaspur-Raipur Road, there was a collision with a truck trailer which was parked on the road and he died on the spot. The appellant, who is the surviving spouse of the deceased, filed a claim for compensation under the provisions of the Motor Vehicles Act 1988, claiming compensation in the amount of Rs 17,50,000. The truck driver, the owner of the vehicle and the insurer were impleaded as parties to the proceedings. The MACT, by its order dated 30 July 2009, came to the conclusion that this was a case of contributory negligence. The claim for compensation was computed as follows:

a)	Loss of dependency	Rs 7,51,476/-
b)	Expenses incurred in last rites	Rs.5,000/-
c)	Loss of love and affection	Rs.5,000/-
d)	Loss of property	Rs.2500/-
	Total	Rs.7,63,976/-

However, on the ground of there being contributory negligence on the part of the deceased assessed at 50%, a total amount of Rs 3,81,988 came to be awarded, together with interest at six per cent per annum.

5 In appeal, the High Court affirmed the view of the MACT on contributory negligence, but recomputed the compensation. Taking the monthly income of the deceased at Rs 12,636, one-third was deducted towards personal expenses. Applying a multiplier of 11, the deceased

being 53 years of age, the total amount payable was computed at Rs 11,12,000 on account of loss of dependency. A lump sum of Rs 1,25,000 was awarded by the High Court towards conventional head. Since the High Court had affirmed the view of the MACT on contributory negligence, the total compensation was enhanced from Rs 3,81,988 to Rs 6,81,000.

6 In pursuance of the notice that was issued by this Court on 22 January 2019, the office report indicates that service is complete.

7 Learned counsel appearing on behalf of the appellant has assailed the view which has found acceptance with the High Court, both on the finding of contributory negligence and on the computation of compensation. On the first aspect, learned counsel submitted that the order of the MACT indicates that there was an independent witness who had deposed that the truck trailer was parked without any reflectors on the road. It was urged that though the MACT accepted the evidence of the independent witness, it came to the conclusion that there was contributory negligence on the part of the deceased without cogent reason. The High Court, it has been submitted, simply proceeded to affirm the view of the MACT without giving reasons in spite of the fact that it was seized of a substantive appeal against the order of the MACT. On the computation of the compensation, learned counsel submitted that in terms of the judgment of the Constitution Bench of this Court in **National Insurance Company Limited v Pranay Sethi**², the High Court ought to have added an amount of 15% towards future prospects having regard to the age of the deceased and the fact that he was in government employment.

8 On the aspect of contributory negligence, the MACT adverted to the statement of AW 2, who was an independent eye-witness at the spot of the accident, in the following terms:

“As per an eye witness to the accident, on behalf of the applicant, the statement of AW-2 Mohd. Rafiq Qureshi has been got recorded. According to this witness, at the time of accident he was going from his house situated in Dharsiva to the Dhaba situated at about 2-2.5 kms away from Dharsivan to eat food on the Bilaspur road and when he had reached near Sagar Family Restaurant and Dhaba then suddenly from the side of Bilaspur, Mirza Jumman Beg who was coming on his hero Honda motorcycle from the side of Bilaspur has come and collided on the backside of the truck parked on the road on the left side which truck was of 16 tyres and he had fallen with the Hero Honda motorcycle. This witness has further stated that after eating the food in the Dhaba when he was returning back, he came to know that Mirza jumman Beg has expired. In cross-examination this witness has stated that the truck trailer was parked facing Raipur i.e. its rear was facing Bilaspur. In cross, this witness has denied that there was a radium reflector on the rear side of the truck trailer. This witness has not been given the suggestion in the cross-examination that the indicator of the truck trailer was lit. In cross examination this witness has denied that any bush etc. had been put on the side of the Truck Trailer as indication mark.”

9 The MACT then discussed the evidence of the driver of the truck trailer, NAW 1. After analysing the evidence of the driver, the MACT held that his evidence did not inspire confidence, when he stated that indicators on the truck trailer had been lit. On the contrary, the eye-witness, AW 2, in the course of his cross-examination, denied the existence of reflectors at the spot. The MACT noted that it did not appear that the truck trailer had been parked outside the area of the pakka road. In spite of its analysis in the above terms, the MACT surmised that if the lights of the motorcycle were lit, the deceased would have been able to avoid the accident. This

part of the reasoning of the MACT is purely a matter of surmise. Once the substantive evidence before the MACT established that the truck trailer had been parked on the road at night without any reflectors, we are of the view that there was no reason or justification for the MACT to proceed on the basis of conjecture in arriving at a finding of contributory negligence. We find from the judgment of the High Court that this aspect has not been discussed at all and the High Court simply proceeded to confirm the finding of contributory negligence. Consequently, on the first limb of the submission, learned counsel appearing on behalf of the appellant is correct and the submission requires to be accepted.

10 On the computation of the compensation which is payable, we are guided by the judgment of the Constitution Bench in **Pranay Sethi** (supra). The monthly salary of the deceased, who was engaged as an Assistant Grade II in the Water Resources Department of the State of Chhattisgarh was Rs 12,636. Since the deceased was married, one-third deduction would have to be made on account of his personal expenses, which would work out to Rs 4,212. The net income would, therefore, be Rs 8,424. An addition of 15% towards future prospects would be required to be made having regard to the age of the deceased, which was 53. The total income of the deceased would, therefore, work out to Rs 9,687 per month. The yearly income of the deceased would stand computed at Rs 1,16,244. Applying a multiplier of 11, the total loss of dependency would be Rs 12,78,684. In addition to the aforesaid amount, conventional heads amounting to Rs 75,000 would have to be granted in terms of the decision noted above. Hence, the total compensation payable on account of death

would work out to Rs 13,53,684. The appellant would be entitled to interest at the rate of six per cent, as awarded by the MACT and affirmed by the High Court on the aforesaid amount from the date of the accident.

11 The insurer shall deposit the difference in compensation before the MACT, Raipur for disbursal within a period of three months from the receipt of a certified copy of this order. The MACT shall disburse the compensation in an appropriate manner keeping the interest of the widow, who is the appellant before this Court in mind.

12 The appeal is accordingly allowed in the above terms. There shall be no order as to costs.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Ajay Rastogi]

New Delhi;
December 11, 2019

ITEM NO.14

COURT NO.8

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 44366/2018

(Arising out of impugned final judgment and order dated 06-10-2017 in MAC No. 1370/2009 passed by the High Court of Chhatisgarh at Bilaspur)

JUMANI BEGAM

Petitioner(s)

VERSUS

RAM NARAYAN & ORS.

Respondent(s)

(WITH IA No. 9507/2019 - CONDONATION OF DELAY IN FILING, IA No. 9508/2019 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS, IA No. 9510/2019 - EXEMPTION FROM FILING O.T.)

Date : 11-12-2019 This petition was called on for hearing today.

CORAM : HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE AJAY RASTOGI

For Petitioner(s) Mr. Kaustubh Shukla, AOR
Mr. Abhay Singh, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

Leave granted.

The appeal is allowed in terms of the signed reportable judgment. There shall be no order as to costs.

Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)

(SAROJ KUMARI GAUR)

AR-CUM-PS

COURT MASTER

(Signed reportable judgment is placed on the file)