

**Krishan Kumar Dubey Vs. Tularam and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/511137](http://sooperkanoon.com/511137)

**Court :** Madhya Pradesh

**Decided On :** Dec-08-2005

**Reported in :** IV(2006)ACC891; 2006ACJ2178

**Judge :** Arun Mishra and ;A.P. Shrivastava, JJ.

**Acts :** [Motor Vehicles Act, 1988](#) - Sections 173; Indian Penal Code (IPC) - Sections 304A

**Appeal No. :** M.A. No. 688 of 2000

**Appellant :** Krishan Kumar Dubey

**Respondent :** Tularam and ors.

**Advocate for Def. :** Pulok Rai, Adv.

**Advocate for Pet/Ap. :** Anil Dwivedi, Adv.

**Disposition :** Appeal allowed

**Judgement :**

**A.P. Shrivastava, J.**

1. Being aggrieved by the award dated 23.12.1999 passed by Additional Motor Accidents Claims Tribunal, Sohagpur, in Motor Claim Case No. 4 of 1990, the appellant preferred this appeal for enhancement of compensation under Section

2. Facts of case are that on 22.12.1989, the deceased Shakuntala Dubey who was teacher at Naveen Convent School, Sohagpur, at about 4 p.m. was returning to home from the school. When she reached near Sohagpur, jeep No. MKK 2763 which belongs to respondent No. 2 and driven by respondent No. 3 dashed against her which resulted injuries on her person and she died on the spot. The appellant is husband of deceased Shakuntala Bai. A criminal case under Section 304A, Indian Penal Code was also registered against the respondent No. 3 before the Judicial Magistrate, First Class, Sohagpur. Apart from the salary she earned Rs. 1,500 per month from tuition. The appellant demanded Rs. 10,50,000 as compensation before the Tribunal.

3. Respondent No. 2 denied that he is the owner of the offending vehicle and real owner is Narendra Sharma. The vehicle has been sold on 5.4.1989 to Narendra Sharma but as the full amount was not paid, therefore, insurance company was not informed accordingly. Respondent No. 3 also denied that he was driving the vehicle on the date of incident. In spite of notice, respondent No. 1 did not file any reply in the Tribunal.

4. The Tribunal awarded Rs. 1,30,000. Against the above order the present appeal has been filed by the appellant.

5. In this appeal, the appellant has challenged only the quantum of compensation awarded by the Tribunal. The claimant has claimed Rs. 10,50,000 as compensation but the Tribunal awarded compensation of Rs. 1,30,000. There is no cross-appeal presented by respondents against finding of their liability. Therefore, the only finding for consideration before us is whether compensation awarded by the Tribunal is just and reasonable.

6. The claimant is the husband of the deceased Shakuntala Bai. Her age at the time of accident was 42 years. The age of claimant is also 42 years. Krishan Kumar, AW 1, has deposed that the deceased was a teacher in the primary school and her salary was Rs. 1,000 per month. It is also submitted that in addition to salary, she earned Rs. 1,500 per month from tuition. There is no supporting

evidence adduced about the income of the salary and tuition. Therefore, we assess income of deceased at Rs. 1,000 from salary and Rs. 500 from tuition, that means, the total income would be Rs. 1,500 per month. After deduction of 1/3rd amount the monthly loss of dependency would be Rs. 1,000 and annual loss of dependency comes to Rs. 12,000. Looking to the age of claimant a multiplier of 15 is applicable as per Schedule to the Motor Vehicles Act. Therefore, after multiplier of 15 being applied the loss of dependency ' 7. Consequently the appeal is allowed comes to Rs. 12,000 x 15 = Rs. 1,80,000 to the extent mentioned above. It is also plus Rs. 2,000 for funeral, Rs. 2,500 for directed that the claimant shall be entitled loss to estate, Rs. 5,000 for loss of expect to compensation of Rs. 1,94,500 from the ancy of life and Rs. 5,000 for loss of correspondents jointly and severally. The rate sortium to husband. Therefore, the total of interest is 6 per cent from the date of amount awarded is Rs. 1,94,500. The rate application till payment. No order as to of interest as awarded by the Tribunal is costs. reduced from 12 per cent to 6 per cent from date of filing petition till realization.

7. Consequently the appeal is allowed to the extent mentioned above. It is also directed that the claimant shall be entitled to compensation of Rs. 1,94,500 from the respondents jointly and severally. The rate of interest is 6 per cent from the date of application till payment.

8. No order as to costs.

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