

**Mst. Nani and ors. Vs. Ghashi and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/765462](http://sooperkanoon.com/765462)

**Court :** Rajasthan

**Decided On :** Oct-24-1986

**Reported in :** 1987(2)WLN675

**Judge :** Guman Mal Lodha, J.

**Appeal No. :** S.B. Civil Misc. Appeal No. 87 of 1985

**Appellant :** Mst. Nani and ors.

**Respondent :** Ghashi and ors.

**Disposition :** Appeal allowed

**Judgement :**

**Guman Mal Lodha, J.**

1. The claimant Mst. Nani widow of Mansi, and Bhura son of Mansi, and Sohni d/o Mansi have filed this appeal against the rejection of claim by the Tribunal.

2. The Tribunal has come to the conclusion that though the accident happened in which the deceased Mansi died and this accident happened on account of the truck No. FRG 1565 which was driven by the non-appellant No. 1 who was driving rashly and negligently, Yet the Tribunal rejected the claim on the ground that Mst. Nani's statement fails to inspire confidence because she is sub-inspector or proxy of real Mst. Nani. Secondly it was said that since the deceased was travelling in a

goods vehicle, therefore no liability can be incurred of the insurance company.

3. I have considered the rival contentions of the learned Counsel for the parties and the relevant record.

4. It is now well established by the Full Bench judgment of this court in case of Santra Bai reported in 1985 ACJ 762 that in goods vehicle if a person travels for hire and reward then the insurance company is liable. So far as statement of Mst. Nani is concerned I have read it and I do not find any inherent improbability. The observations of the learned Member of the Accident Claims Tribunal is that from his observations Mst. Nani appeared to be an old lady. It is difficult to accept this observation because youth or oldness regarding the health of a person partially on conditions in which one is living the nourishment the physical and mental pleasure as well as. agony, the various other factors. It is too hazardous for a Judge sitting in a court to make any estimate whether a person is young or old about his age. It is much more hazardous to say that one is important or proxy, when one appears and says on oath that she is of a particular age and that too when she comes as a widow of person who has died in an accident, which means that after great tragedy when the entire future of the lady has been completely blackened and the chances of any prosperity or happiness has been lost for all times to come.

5. In such circumstances I am of the opinion that Nani's statement should not have been disbelieved.

6. From the evidence it appears that Mst. Nani's husband used to earn about Rs. 200/- out of which Rs. 100/- he must have given for the period when he would have earned to Mst. Nani and his son and daughter. Thus, the compensation would be Rs.  $100 \times 20 \times 12 = 24,000/-$ .

7. Mst. Nani should also get Rs. 6,000/- on account of consortium. Thus the amount would be Rs. 30,000/- and all non-petitioners would be jointly and severally liable for its payment.

8. The appeal is consequently accepted and the compensation is allowed as Rs. 30,000/- plus interest @ 12% from the date of application to the date of realisation.

The parties would bear their own costs.

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