

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6552 OF 2010  
(Arising out of SLP(C)No.5535 OF 2005)

KATTO BAI & ORS.

.....APPELLANTS

VERSUS

KOMAL RAJAK @ TANTU & ORS.

.....RESPONDENTS

O R D E R

Leave granted.

This appeal is directed against judgment dated 16.8.2004 of the Division Bench of Madhya Pradesh High Court whereby it allowed Miscellaneous Appeal No.1364 of 1999 preferred by the National Insurance Company (respondent No.3) and another and reduced the compensation awarded to the appellants by Additional Motor Accident Claims Tribunal, Lakhnadon (for short, 'the Tribunal') from Rs.6,51,000/- to Rs.1,89,500/-.

Shri Hem Singh (husband of appellant No.1 and father of appellant Nos.2 and 3) died in a road accident which occurred on 15.3.1998 when he was hit by truck bearing registration No.M.P. 20-G/0277, which was driven by respondent No.1 and was insured with respondent No.3. The Tribunal awarded compensation to the appellants by taking the income of the deceased as Rs.3,000/- per month and by applying the multiplier of 32.

2

The High Court took cognizance of the averments contained in para 13 of the claim petition wherein, appellant No.1 had admitted that her husband was a holder of Below Poverty Line (BPL) card and held that his income could not have been

Rs.3,000/- per month.

The High Court then referred to Section 163A and second schedule of the Motor Vehicles Act, 1989 and held that the income of the deceased can be taken at Rs.15,000/- per annum. After applying deduction of one-third of his personal

expenses and adding Rs.2,000/- for funeral expenses, Rs.5,000/-

for loss of consortium and Rs.2,500/- for the loss of estate, the

High Court held that the claimants are entitled to receive

Rs.1,89,500/- with interest at the rate 9% per annum.

Notice of the special leave petition was issued on 4.3.2005

only regarding appropriateness of the interest awarded by the

High Court. However, when the arguments were heard

on 19.07.2010, we indicated to the learned counsel for respondent

No.3-Insurance Company that the Court would like to examine the

justification of applying the rule of 1/3rd deduction from the

total income of the deceased because it was felt that karta of

the BPL card holder cannot think of utilizing one-third of income

on himself. Thereupon, Mrs. Kiran Suri, learned counsel

appearing for the Insurance-Company prayed for adjournment

to seek instructions.

Today, Mrs. Suri informed the Court that respondent No.3

will have no objection if the compensation payable to

appellant is redetermined without applying the rule of 1/3rd

3

deduction.

We are happy to note that the learned counsel appearing for the Insurance Company has been able to convince the concerned authorities that they would not insist on deduction of 1/3rd from his income for the purpose of determination of compensation.

In the premise aforesaid, the appeal is disposed of

by directing that the amount of compensation payable to

appellants shall be re-calculated by taking income of

the deceased as Rs.15,000/- per annum without any deduction and by

applying the multiplier of 15. Of course, in terms of

the direction given by the High Court, the appellants shall be

entitled to interest at the rate of 9% per annum.  
t

Respondent

No.3 is directed to pay the additional amount of compensation to  
the appellants within a period of 2 months from today.

The aforementioned order has been passed by us in  
the  
peculiar facts of the case and the same shall not be treated as  
precedent for other cases.

.....J.  
( G.S.SINGHVI )

.....J.  
( ASOK KUMAR GANGULY )

NEW DELHI;  
AUGUST 9, 2010.

4

ITEM NO.40

COURT NO.11

SECTION IVA

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

Petition(s) for Special Leave to Appeal (Civil) No(s).5535/2005  
(From the judgement and order dated 16/08/2004 in MA No. 1364/1999  
of The HIGH COURT OF M.P AT JABALPUR)

KATTO BAI & ORS.

Petitioner(s)

VERSUS

KOMAL RAJAK @ TANTU & ORS.

Respondent(s)

(With office report)

Date: 09/08/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr. Rameshwar Prasad Goyal,Adv.

For Respondent(s) Ms. Kiran Suri,Adv.  
Ms.Pankaj Bala Verma, Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The appeal is disposed of by directing that the amount of  
compensation payable to the appellants shall be re-calculated by  
taking income of the deceased as Rs.15,000/- per annum without any  
deduction and by applying the multiplier of 15. Of course, in  
terms of the direction given by the High Court, the appellants  
shall be entitled to interest at the rate of 9% per annum.  
Respondent No.3 is directed to pay the additional amount of  
compensation to the appellants within a period of 2 months from  
today.

The aforementioned order has been passed by us in the peculiar  
facts of the case and the same shall not be treated as precedent  
for other cases.

( Satish K.Yadav )  
Court Master

( Phoolan Wati Arora )  
Court Master

( Signed order is placed on the file )