

29 (SC) cannot be made applicable. Even if we go by the fact that the driver and the owner did not appear before Tribunal, subject to a rider to prove that the owner proves that he had taken all cautions, recovery right is granted to the Insurance Company.

20. As far as quantum is concerned, in view of the decision of the this Court in **F.A.F.O. No.2389 of 2016 (National Insurance Co. Ltd. Vs. Smt. Vidyawati Devi And 2 Others) decided on 27.7.2016** and as per the oral submission of learned counsel for the respondent-claimant, an additional sum of Rs. 25,000/- is granted. The reason for granting additional amount is that while granting the amount of Rs.1,00,000/-, the Tribunal has not added any amount under the head of future loss of income. His income was considered to be Rs.5000/- and a lump sum of Rs.1,00,000/- was granted by the Tribunal without any further bifurcation which is bad in eye of law but, however as the accident took place in the year 1992 and 30 years have practically elapsed a lump sum of Rs.25,000/- would be admissible to the injured-claimant over and above the amount granted by the Tribunal.

21. The rate of interest of 12% granted by the Tribunal is not disturbed looking to the passage of time and the injuries which the claimant has sustained. However, this additional sum of Rs.25,000/- will carry 6% flat rate of interest.

22. In view of the above, this appeal is partly allowed. The remaining amount be deposited with the accrued interest and the claimant be given the same without keeping the same in fixed deposit as more

than 30 years have elapsed and the claimant must be in his prime now.

23. Record and proceedings be sent back to the Tribunal forthwith

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**(2022)02ILR A735**

**APPELLATE JURISDICTION**

**CIVIL SIDE**

**DATED: ALLAHABAD 06.01.2022**

**BEFORE**

**THE HON'BLE DR. KAUSHAL JAYENDRA  
THAKER, J.**

First Appeal From Order No. 876 of 1992

**State Of U.P. & Ors. ...Appellants**  
**Versus**  
**Km. Anubhooti @ Eena ...Respondent**

**Counsel for the Appellants:**  
S.C.

**Counsel for the Respondent:**  
Sri A.Kumar, Sri kamal Kumar Singh

**(A) Civil Law - Motor Vehicles Act, 1988 - Section 173 - Appeal** - Injuries caused to minor - filed claim petition through legal guardian - tribunal raised issues and granted a sum of Rs.2,27,560/- with a rate of interest 12% - State felt aggrieved by award of compensation to the respondent - hence appeal.(Para - 2,4)

**HELD:-**Negligence proved and involvement also proved. Driver never stepped into the witness box, child is a third party and, therefore, also this Court cannot take a different view then that taken by the tribunal. Compensation as awarded to the minor cannot be said to be exorbitant. Amount of Rs.2, 27,560/- for the injuries caused to the minor even in those days cannot be said to be such which requires any interference. The interim relief shall stand vacated forthwith. The amount be deposited with interest at the rate of 9% . (Para -8,9 )

**Appeal partly allowed.(E-7)****List of Cases cited:-**

1. Sita Ram Moti Lal Vs Santasu Prasad Jai Shanker Bhutt, 1966 ACC 89 (SC)
2. HP Road Transport Corp. Shimla Vs Naem & anr., 1987 ACJ 642

(Delivered by Hon'ble Dr. Kaushal  
Jayendra Thaker, J.)

1. Heard learned counsel for the appellants, learned counsel for the respondent; and perused the record.

2. By way of this appeal, the State has felt aggrieved by the award of compensation to the respondent on 11.1.1991 at 5.00 p.m. lost the compensation sought was Rs.2,27,560/- for injuries caused to the minor who filed the claim petition through legal guardian.

3. The facts as they culled out from the record are as follows:-

"That on 11.1.1991 at 5.00 p.m. Km. Anubhuti was playing on her tiny tricycle at the gate of resident No.5-B Upadhaya Colony, Civil Lines, Rampur. The respondent Ram Sagar Divedi driving jeep no.US V 3071 belonging to soil conservation department of Rampur District of the Govt. of U.P. rashly and negligently hit the claimant, who sustained grievous head injury and violent nervous shock. She was shifted to the District Hospital, Rampur where doctors attending on her advised her shifting to AIIMS, New Delhi or any other nursing home with specialist doctors for treatment but there she could not get admission. She was taken to Sahgals Neurological Research Institute,

New Delhi for treatment. The grievous head injury allegedly rendered her mentally affirm and permanently disabled. Therefore, she could not be married and would have to depend on her family. A sum of Rs.10,27,560/- has been sought as compensation on different heads as detailed in the petition."

4. Respondent No.3, namely, driver of the vehicle did not contest the litigation the jeep it was alleged the jeep was not involved in the incident in question and the jeep could not have been used by the driver as there was entry in the log book. The tribunal raised issues and granted a sum of Rs.2,27,560/- with a rate of interest 12%, it is this that as aggrieved the State authorities.

5. The factual scenario goes to show that the log book entry and the Soil Conservation Officer tried to help the appellant. However the tribunal has considered the judgment of the Apex Court titled **Sita Ram Moti Lal v. Santasu Prasad Jai Shanker Bhutt, 1966 ACC 89 (SC)** the fact that the vehicle belonged to the Soil Corporation and was being driven by authorized person and is involved in the accident which is proved by documentary evidence.

6. The negligence is proved and involvement is also proved. The driver never stepped into the witness box, child is a third party and, therefore, also this Court cannot take a different view then that taken by the tribunal which was relied on the judgment of the Apex Court in **HP Road Transport Corporation Shimla v. Naem and another, 1987 ACJ 642.**

7. In view of the matter, the compensation as awarded to the minor

cannot be said to be exorbitant for the following reasons:-

(i) the child has suffered grave injuries;

(ii) the tribunal has considered her condition and has held that though the multiplier is of the higher side that she would not be able to earn in future.

8. The amount of Rs.2,27,560/-for the injuries caused to the minor even in those days cannot be said to be such which requires any interference.

9. The interim relief shall stand vacated forthwith. The amount be deposited however with interest at the rate of 9% to that extent.

10. The amount kept in fixed deposit shall be released in favour of minor who by now must have attained majority.

11. This appeal under Section 173 of the Motor Vehicles Act, 1988 shall stands **partly allowed**.

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**(2022)02ILR A737**  
**APPELLATE JURISDICTION**  
**CIVIL SIDE**  
**DATED: ALLAHABAD 16.12.2021**

**BEFORE**

**THE HON'BLE DR. KAUSHAL JAYENDRA**  
**THAKER, J.**  
**THE HON'BLE AJAI TYAGI, J.**

First Appeal From Order No. 1447 of 2005

**Smt Seema Yadav & Ors.      ...Appellants**  
**Versus**

**Vinod Kumar Bajpai & Ors. ...Respondents**

**Counsel for the Appellants:**

Sri Ram Singh

**Counsel for the Respondents:**

**(A) Civil Law - Motor Vehicles Act, 1988 - quantum of compensation - Income Tax Act, 1961 - Section 194A (3) (ix) - total amount of interest, accrued on the principal amount of compensation is to be apportioned on financial year to financial year basis - if the interest payable to claimant for any financial year exceeds Rs.50,000/- - insurance company/owner is/are entitled to deduct appropriate amount under the head of 'Tax Deducted at Source'- Order of investment not passed because applicants /claimants are neither illiterate nor rustic villagers. (Para - 8,18)**

Tribunal awarded a sum of Rs.4,85,000/- - with interest @ 6% as compensation - not granted any amount towards future loss of income of the deceased - multiplier applied 6. (Para - 1,6)

**HELD:-**Total compensation awarded : 14,72,800. Multiplier applied 11. Deceased in the age bracket of (51-60) years as salaried person, 20% of the income added as future prospects . Rate of interest fixed at 7.5%. Judgment and decree passed by the Tribunal stand modified. Respondent-Insurance Company shall deposit the amount along with additional amount within a period of 12 weeks from today with interest at the rate of 7.5% from the date of filing of the claim petition till the amount is deposited. (Para - 6,7,13)

**Appeal partly allowed. (E-7)**

**List of Cases cited:-**

1. National Insurance Co. Ltd. Vs Pranay Sethi & ors., 2017 0 Supreme (SC) 1050

2. New India Assurance Co. Ltd. v. Urmila Shukla & ors., 2021 ACJ 2081,